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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a
Separate compilation

भाग II—खण्ड 3—उप-खण्ड (II) PART II—Section 3—Sub-Section (II)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेशन मंत्रालय
(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 7 नवम्बर, 1997

कां०आ० 2977.—दिल्ली विशेष पुलिस स्थापना अधि-
नियम, 1946 (1946 का अधिनियम संख्या 25) की धारा
6 के साथ पठित धारा 5 की उपधारा (1) द्वारा प्रदत्त
शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा
हरियाणा सरकार की सहमति में, गृह विभाग आदेश संख्या
20/23/97-3 एच० जी० -1, चंडीगढ़, दिनांक 18-9-97
के द्वारा दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों
और क्षेत्राधिकार का भारत भूषण, पुत श्री कमल नयन श्रोता,
निवासी 5 ए-136 एन० आई० टी० फरीदाबाद, हरियाणा
की हत्या अथवा किसी अन्य अपराध, प्रयास, दुष्प्रेरण
और पश्यांत्र अथवा इस केस से उत्पन्न एक ही संघ व्यवहार
के अनुक्रम में किये गए उक्त अपराधों के संबंध में भारतीय
दंड संहिता की धारा 302/34 के तहत 11-9-96 की याता

एन० आई० टी० फरीदाबाद में दर्ज प्रथम सूचना रिपोर्ट संख्या
829 का अन्वेषण करने के लिए संपूर्ण हरियाणा राज्य तक
विस्तार करती है।

[संख्या 228/80/97/ए०जी०डी०-II]

हरि सिंह, अवसर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIE-
VANCES AND PENSION

(Department of Personnel & Training)

New Delhi, the 7th November, 1997

S.O. 2977.—In exercise of the powers conferred
by Sub-Section (1) of the Section 5 read with
Section 6 of the Delhi Special Police Establishment
Act, 1946 (Act. No. 25 of 1946), the Central
Government with the consent of State Government
of Haryana vide Home Department Order No.
20/23/97-3HG-I, Chandigarh dated 18-09-1997
hereby extends the powers and jurisdiction of the

members of the Delhi Special Police Establishment to the whole of State of Haryana for investigation of Case FIR No. 829 dated 11-09-96 of Police Station NIT, Faridabad, Haryana, under sections 302/34 Indian Penal Code relating to the murder of Bharat Bhushan S/o Kamal Nain Arora R/o 5A-136 NIT, Faridabad, Haryana or any other offences, attempts, abetments and conspiracies in relation to or in connection with the said offences committed in the course of the same transaction arising out of same facts.

[No. 228/80/97/AVD. II]
HARI SINGH, Under Secy.

नई दिल्ली, 10 नवम्बर, 1997

का.भा. 2978—केन्द्रीय सरकार दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, एतद्वारा श्री ए. के. मित्तल, अधिवक्ता, लखनऊ को विशेष न्यायिक दंडाधिकारी (प्रवृत्ति नियंत्रण)/सी. वी. आई., लखनऊ/अतिरिक्त जिला एवं सत्र न्यायाधीश, लखनऊ/जिला एवं सत्र न्यायाधीश लखनऊ की अदालत में मामला संख्या भार. सी. 2 (एस)/96-एस. आई. यू.-1, नई दिल्ली और किसी अन्य न्यायालय में उससे जुड़े अथवा उसके साथ घटित किसी अन्य मामले में संचालन हेतु विशेष लोक अभियोजक नियुक्त करती है।

[संख्या 225/51/97-ए. वी. डी.-II]
हरि सिंह, अवसर सचिव

New Delhi, the 10th November, 1997

S.O. 2978.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Sh. A. K. Mittal, Advocate, Lucknow as Special Public Prosecutor for conducting case No. RC-2(S)/96-SIU-I/New Delhi in the Court of Special Judicial Magistrate (Pollution Control)/CBI Lucknow/Additional District and Sessions Judge, Lucknow/District and Sessions Judge, Lucknow and any other matter connected therewith or incidental thereto in any other Court.

[No. 225/51/97-AVD. II]
HARI SINGH, Under Secy.

नई दिल्ली, 10 नवम्बर, 1997

का.भा. 2979.—केन्द्रीय सरकार, दंड प्रक्रिया संहिता, 1973 (1974 का अधिनियम 2) की धारा 24 की उप-धारा (8) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए एतद्वारा मुकुट बिहारी गर्मा, अधिवक्ता, जयपुर की जिला एवं सत्र न्यायाधीश, जयपुर (राजस्थान) की अदालत में मामला संख्या भार. सी. 2 (एस)/91-एस. आई. यू.-1/

नई दिल्ली तथा अन्य किसी अदालत में उससे जुड़े अथवा उसके साथ घटित किसी अन्य मामले में संचालन हेतु विशेष लोक अभियोजक नियुक्त करती है।

[संख्या 225/57/97-ए. वी. डी.-II]
हरि सिंह, अवसर सचिव

New Delhi, the 10th November, 1997

S.O. 2979.—In exercise of the powers conferred by sub-section (8) of section 24 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Central Government hereby appoints Sh. Mukut Behari Sharma, Advocate, Jaipur as Special Public Prosecutor for conducting case No. RC-2(S)/91-SIU-I/New Delhi in the Court of District and Sessions Judge, Jaipur (Rajasthan) and any other matter connected therewith or incidental thereto in any other Court.

[No. 225/57/97-AVD. II]
HARI SINGH, Under Secy.
अवदेश

नई दिल्ली, 13 नवम्बर, 1997

का.भा. 2980.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं 25) की धारा 6 संपठित धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उत्तर प्रदेश राज्य सरकार के गृह (पुलिस) सेवा सीक्शन-2 के दिनांक 20 अक्टूबर, 1997 के सं. 11699/पीजीएस/1997 द्वारा प्राप्त उत्तर प्रदेश राज्य सरकार की सहमति से महानिदेशक अग्नि-शमन सेवा उत्तर प्रदेश द्वारा वित्तीय वर्ष 1997-98 में उद्योग निदेशालय, उत्तर प्रदेश के माध्यम से खरल फायर स्टेशनों के लिए 143 फ्लोटिंग पम्प तथा सहायक उपकरण की खरीद से संबंधित आरोपों तथा इन आरोपों से उद्भूत किन्हीं अन्य अपराधों के अन्वेषण के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और अधिकारिता का विस्तार संपूर्ण उत्तर प्रदेश राज्य पर करती है।

[सं. 228/86/97-ए. वी. डी.-II]
हरि सिंह, अवसर सचिव

ORDERS

New Delhi, the 13th November, 1997

S.O. 2980.—In exercise of the powers conferred by the section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government with the consent of the State Government of Uttar Pradesh vide Home (Police) Services Section-2, No. 11699/P.O.S./1997 dated Lucknow 20th October, 1997, hereby extends the powers and jurisdiction of the members of Delhi Special Police Establishment in the whole of the State of Uttar Pradesh for the investigation of charges, pertaining to purchase of 143 Floating Pump and accessories for Rural Fire Stations by Director General Fire Services Uttar Pradesh through Directorate of Industries Uttar Pradesh in Financial year 1997-98 and any other offence arising out of these charges.

[No. 228/86/97-AVD. II]
HARI SINGH, Under Secy.

नई दिल्ली, 17 नवम्बर, 1997

New Delhi, the 19th November, 1997

का.आ. 2981.—केन्द्रीय सरकार एतद्वारा आतंकवादी और विध्वंसकारी क्रियाकलाप (निवारण) अधिनियम, 1987 (1987 का अधिनियम सं. 28) की धारा 13 की धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए श्री सी. एस. शर्मा, अधिवक्ता, पुनः स्वर्गीय श्री ईश्वरी प्रसाद शर्मा, निवासी एच-ब्लॉक, फ्लैट सं. 178 अरुणोदय कॉपरेटिव ग्रुप हाउसिंग सोसायटी, विकासपुरी, नई दिल्ली नमोदकन सं. 4046 दिनांक 12-02-1962 को उक्त अधिनियम की धारा 9 के अधीन गठित अजमेर स्थित नानिदिष्ट न्यायालय में मामला सं. आर सी 37 (एस)/93/सोबीप्रार्ई/जयपुर (अदालती मामला सं. एस टी 6/94 राज्य बनाम डा. मोहम्मद जालीस अन्सारी एवं अन्य) में अभियोजन तथा उनसे संबंधित अवकाशानुवर्गिक किसी अन्य मामले का संचालन करने के लिए विशेष लोक अभियोजक के रूप में नियुक्त करती है।

[सं. 225/74/97-एवीजे-II]

हरि सिंह, अवर सचिव

New Delhi, the 17th November, 1997

S.O. 2981.—In exercise of the powers conferred by sub-section (1) of section 13 of the Terrorist and Disruptive Activities (Prevention) Act, 1987 (Act No. 28 of 1987), the Central Government hereby appoints Shri C. S. Sharma Advocate, S/o Late Shri Ishwari Prasad Sharma, R/o H-Block, Flate No. 178, Arunodaya, Co-operative Group Housing Society, Vikaspuri, New Delhi, Enrolment No. 4046 dated 12-2-1962, as a Special Public Prosecutor for conducting the prosecution of case No. RC. 37(S)/93/CBI/Jaipur, (Court Case No. ST-6/94 State Versus Dr. Mohd. Jalles Ansari & others) and any other matter connected therewith or incidental thereto, in the Designated Court at Ajmer, constituted under section 9 of the said Act.

[No. 225/74/97-AVD-II]

HARI SINGH, Under Secy.

नई दिल्ली, 19 नवम्बर, 1997

का.आ. 2982.—केन्द्रीय सरकार एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का अधिनियम सं. 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अपराधों को दिल्ली विशेष पुलिस स्थापना द्वारा अन्वेषित किए जाने वाले अपराधों के रूप में विनिर्दिष्ट करती है, नामतः—

(क) रेल अधिनियम, 1989 (1989 का अधिनियम सं. 24) के अधीन अपराध

(ख) उपर्युक्त अपराधों में से एक अथवा अधिक अपराधों तथा उसी संघर्षाधार के अनुक्रम में किए गए किन्हीं अन्य अपराध अथवा अपराधों से संबंधित अथवा संसक्त प्रयत्न, वृष्णरण और पञ्चयत्न।

[सं. 228/74/97-एवीजे-II]

हरि सिंह, अवर सचिव

S.O. 2982.—In exercise of the powers conferred by Sec. 3 of the Delhi Special Police Establishment Act, 1946 (Act No. 25 of 1946), the Central Government hereby specifies the following offences as the offences which are to be investigated by Delhi Special Police Establishment namely :—

(a) Offences under The Railways Act, 1989 (Act No. 24 of 1989).

(b) Attempts, abetments and conspiracies in relation to, or in connection with one or more of the offences mentioned above and any other offence or offences committed in the course of the same transaction.

[No. 228/74/97-AVD. II]

HARI SINGH, Under Secy.

वित्त मंत्रालय

(राजस्व विभाग)

नई दिल्ली, 17 सितम्बर, 1997

(आयकर)

का.आ. 2983.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा “बुरसेतखी मानिकजी शाय अगियारी, जमशेदपुर” को कर निर्धारण वर्ष 1982-94 से 1995-96 तक के लिए निम्नलिखित शर्तों के अधीन रहते हुए उक्त उपखण्ड के प्रयोजनार्थ अधिसूचित करती है—

(i) कर-निर्धारिणी इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिए इसका संचयन पूर्णतया तथा अनन्यतया उन उद्देश्यों के लिए करेगा, जिनके लिये इसकी स्थापना की गई है;

(ii) कर निर्धारिणी ऊपर-उल्लिखित कर-निर्धारण वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक ठंग अथवा तरीकों से भिन्न तरीकों से इसकी निर्ध (जेबर-जवाहरात, पर्णोत्तर आदि के रूप में प्राप्त तथा रख-रखाव में सर्वोच्च अशुद्धता से भिन्न) का निदेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा;

(iii) यह अधिसूचना किसी ऐसी आय के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अक्षिप्त के रूप में हो जब तक कि ऐसा कारोबार उक्त कर निर्धारिणी के उद्देश्यों की प्राप्ति के लिये प्रासंगिक नहीं हो तथा

ऐसे कारोबार के सम्बन्ध में अलग से लेखा-पुस्तिकाएँ नहीं रखी जाती हों।

[अधिसूचना सं. 10412/पा.सं. 197/87/97/आयकर
नि.-I]

एच. के. चौधरी, अवर सचिव

MINISTRY OF FINANCE

(Department of Revenue)

New Delhi, the 17th September, 1997

(INCOME TAX)

S.O. 2983.—In exercise of the powers conferred by sub-clause (v) of clause (23-C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Cursetjee Manokjee Shroff Ajiary, Jamshedpur" for the purpose of the said sub-clause for the assessment years 1993-94 to 1995-96 subject to the following conditions namely :—

- (i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established ;
- (ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11 .
- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10412/F. No. 197/87/97-ITA-I]

H. K. CHOUDHARY, Under Secy.

नई दिल्ली, 29 सितम्बर, 1997

(आयकर)

का.आ 2984.—आयकर अधिनियम, 1961 (1961 का 43) की धारा 10 के खण्ड (23-ग) के उपखण्ड (v) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा "श्री राघवेंद्र स्वामी मठ, मन्त्रालय, आन्ध्र प्रदेश" को कर-निर्धारण वर्ष 1996-97 से 1998-99 तक के लिये निम्नलिखित शर्तों के अधीन रहते हुए उक्त उद्देश्य के प्रयोजनार्थ अधिसूचित करती है, अर्थात् :—

(i) कर-निर्धारित इसकी आय का इस्तेमाल अथवा इसकी आय का इस्तेमाल करने के लिये इसका संचयन पूर्णतया तथा अनन्यतया उक्त उद्देश्यों के लिये करेगा, जिनके लिये इसकी स्थापना की गई है ;

(ii) कर-निर्धारित ऊपर-उल्लिखित कर-निर्धारित वर्षों से संगत पूर्ववर्ती वर्षों की किसी भी अवधि के दौरान धारा 11 की उपधारा (5) में विनिर्दिष्ट किसी एक अथवा एक से अधिक वंग अथवा तरीकों से भिन्न तरीकों से इसकी निधि (ज्वेलर-जवाहिरात, पर्णोच्चर आदि के रूप में प्राप्त तथा रख-रखाव में स्वैच्छिक अंशदान से भिन्न) का निवेश नहीं करेगा अथवा उसे जमा नहीं करवा सकेगा ;

(iii) यह अधिसूचना किसी ऐसी आय-के संबंध में लागू नहीं होगी, जो कि कारोबार से प्राप्त लाभ तथा अभिलाभ के रूप में हो जब तक कि ऐसा कारोबार उक्त कर-निर्धारित के उद्देश्यों की प्राप्ति के लिए प्रासंगिक नहीं हो तथा ऐसे कारोबार के संबंध में अलग से लेखा-पुस्तिकाएँ नहीं रखी जाती हों।

[अधिसूचना सं. 10422/पा.सं. 197/5/97-आयकर
नि.-I]

एच. के. चौधरी, अवर सचिव

New Delhi, the 29th September, 1997

(INCOME TAX)

S.O. 2984.—In exercise of the powers conferred by sub-clause (v) of clause (23-C) of Section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies "Shri Raghavendra Swamy Mutt, Mantralayam, Andhra Pradesh" for the purpose of the said sub-clause for the assessment years 1996-97 to 1998-99 subject to the following conditions namely :—

(i) the assessee will apply its income, or accumulate for application, wholly and exclusively to the objects for which it is established ;

(ii) the assessee will not invest or deposit its funds (other than voluntary contributions received and maintained in the form of jewellery, furniture etc.) for any period during the previous years relevant to the assessment years mentioned above otherwise than in any one or more of the forms or modes specified in sub-section (5) of Section 11 .

- (iii) this notification will not apply in relation to any income being profits and gains of business, unless the business is incidental to the attainment of the objectives of the assessee and separate books of accounts are maintained in respect of such business.

[Notification No. 10422/F. No. 197/5/97-I TA-I]

H. K. CHOUDHARY, Under Secy.

आदेश

नई दिल्ली, 7 नवम्बर, 1997

स्टाम्प

कां.आ. 2985.—भारतीय स्टाम्प अधिनियम 1899 (1899 का 2) की धारा 9 की उपधारा (1) के खंड (ख) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्द्वारा में नेस्ले इंडिया लिमिटेड, नई दिल्ली को मात्र सैन्टीस लाख पचास हजार रुपये का समेकित शुल्क अदा करने की अनुमति प्रदान करती है जो उक्त कंपनी द्वारा जारी किए जाने वाले मात्र पचास परोड़ रुपये के समग्र मूल्य के 5-5 लाख रुपये के अंकित मूल्य वाले 1000 (एक हजार) अपरिवर्तनीय (शृंखला पी पी-5) श्रृण-पत्रों पर स्टाम्प शुल्क के रूप में प्रभावी है।

[सं. 48/97-स्टाम्प-फा. सं. 15/10/97-वि. कं.]

एस. कुमार, अवर सचिव

ORDER

New Delhi, the 7th November, 1997

STAMPS

S.O. 2985.—In exercise of the powers conferred by clause (b) of sub-section (1) of section 9 of the Indian Stamp Act, 1899 (2 of 1899), the Central Government hereby permits M/s. Nestle India Limited, New Delhi to pay consolidated stamp duty of rupees thirty seven lakhs fifty thousand only chargeable on account of the stamp duty on 1000 (one thousand) Non-Convertible (Series PP-5) Debentures of the face value of rupees five lakh each aggregating to rupees fifty crores only to be issued by the said company.

[No. 48/97-Stamps-F. No. 15/10/97-ST]

S. KUMAR, Under Secy.

केन्द्रीय प्रत्यक्ष कर बोर्ड

नई दिल्ली, 17 नवम्बर 1997

का. आ. 2986.—सर्वसाधारण की सूचना के लिए यह अधिसूचित किया जाता है कि केन्द्रीय सरकार मैसर्स होम ट्रस्ट हाऊसिंग फाइनेंस कं. लि., 43 आशुतोष चौधरी एवेन्यू, कलकत्ता-700019 को आयकर अधिनियम, 1961 की धारा 36 (1) (viii) के प्रयोजनार्थ कर निर्धारण वर्ष 1997-98 और 1998-99 के लिए हाऊसिंग कंपनी (आवास वित्त कंपनी) के रूप में अनुमोदित करती है।

यह अनुमोदन इस शर्त पर किया जाता है कि यह कंपनी आयकर अधिनियम, 1961 की धारा 36 (1) (viii) के उपबंधों के अनुरूप होगी और उनका अनुपालन करेगी।

[अधिसूचना सं. 10458/फा. सं. 204/23/96-आयकर नि.-II]

मालती आर. श्रीधरन, अवर सचिव

CENTRAL BOARD OF DIRECT TAXES

New Delhi, the 17th November, 1997

S.O. 2986.—It is notified for general information that M/s. Home Trust Housing Finance Co. Ltd., 43, Ashutosh Chowdhuri Avenue, Calcutta-700019 has been approved by the Central Government as a Housing Finance Company for the purposes of Section 36(1)(viii) of the Income tax Act, 1961, for the assessment years 1997-98 and 1998-99.

The approval is subject to the condition that the company will conform to and comply with the provisions of Section 36(1)(viii) of the Income-tax Act, 1961.

[Notification No. 10458/F. No. 204/23/96 ITA-II]

MALATHI R. SRIDHARAN, Under Secy.

(आर्थिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, 10 नवम्बर, 1997

का.आ. 2987.—भारतीय रिजर्व बैंक अधिनियम, 1934 की धारा 8 की उपधारा (1) के खंड (क) और उपधारा (4) के अनुसरण में, केन्द्रीय सरकार, एतद्द्वारा, डा. बिमल जालान को, उनके कार्यभार ग्रहण करने की तारीख से तीन वर्षों की अवधि के लिए, भारतीय रिजर्व बैंक का गवर्नर नियुक्त करती है।

[एफ. सं. 97/10/97-बी. ओ.-I]

सी.एम. वासुदेव, अपर सचिव

(Department of Economic Affairs)

Banking Division

New Delhi, the 10th November, 1997

S.O. 2987.—In pursuance of clause (a) of Sub-section (1) and sub-section (4) of section 8 of the Reserve Bank of India Act, 1934, the Central Government hereby appoints Dr. Bimal Jalan as Governor of the Reserve Bank of India, for a term of three years from the date of his taking charge.

[F. No. 7/10/97-B.O.I.]

C. M. VASUDEVA, Addl. Secy.

विदेश मंत्रालय

नई दिल्ली, 7 नवम्बर, 1997

का.आ. 2988.—राजनयिक बोसलो अधिकारी (अपभ्रम शुल्क) अधिनियम 1948 (1948 का 41वां) की धारा 2 के अंक (क) के अनुसरण में केन्द्रीय सरकार एतद्द्वारा भारत का उच्चायोग बेलिजटन में सहायक श्री बी. के. शर्मा को (3 अक्टूबर, 1997 से सहायक बोसलो अधिकारी का कार्य करने के लिये प्राधिकृत करती है।

[सं. टी-4330/2/96]

बी. महाशिम, अवर सचिव (पो. बो. एस.)

MINISTRY OF EXTERNAL AFFAIRS

New Delhi, the 7th November, 1997

S.O. 2988.—In pursuance of the Clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby authorises Shri V. K. Sharma, Assistant in the High Commission of India, Wellington to perform the duties of Asstt. Consular Officer with effect from 3-10-1997.

[No. T—4330/2/96]

V MAHALINGAM, Under Secy.

वाणिज्य मंत्रालय

नई दिल्ली, 11, नवम्बर, 1997

का. आ. 2989.—केन्द्रीय सरकार, निर्यात (क्वालिटी नियंत्रण और निरीक्षण) अधिनियम, 1963 (1963 का 22) की धारा 7 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, मैसर्स ब्रेक्स इंडिया लिमिटेड, पैडी, मद्रास-600050 में विनिर्मित मोटर गाड़ी के पुर्जों अर्थात् ब्रेक समुच्चय मास्टर सिलेंडर, व्हील सिलेंडर, उनके पुर्जों, मरम्मत के सामान तथा ब्रेक होजिंग

का निर्यात से पूर्व निरीक्षण करने के लिए मैसर्स ब्रेक्स इंडिया लिमिटेड, का निर्यात रजिस्ट्रीकृत कार्यालय 180 माउंट रोड, मद्रास-600006 में स्थित है, 13 अगस्त, 1997 से तीन और वर्ष की अवधि के लिए का. आ. 2706 तारीख 13 अगस्त, 1984 के अनुसार अधिसूचित शर्तों के अधीन रहते हुए, अधिकरण के रूप में मान्यता देती है।

[फाइल सं. 5/24/97-ईआई एंड ईपी]

प्रभु दास, निदेशक

MINISTRY OF COMMERCE

New Delhi, the 11th November, 1997

S.O. 2989.—In exercise of the powers conferred by sub-section (1) of Section 7 of the Export (Quality Control and Inspection) Act, 1963 (22 of 1963), the Central Government hereby recognises, for a further period of three years with effect from 13-8-1997, M/s Brakes India Limited, having their registered office at 180, Mount Road, Madras-600006, as the agency for inspection of Automobile Spares viz. Brake assembly, Master Cylinder wheel cylinder, their parts & repair kits, and Brake Hoses manufactured at M/s Brakes India Ltd, Padi, Madras-600050, prior to export subject to conditions notified vide S.O. 2706 dated 13th August, 1984.

[File No. 5/24/97-EI&EP]

PRABH DAS, Director

कोयला मंत्रालय

नई दिल्ली, 13, नवम्बर, 1997

का.आ. 2990.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाय अतुल्य में उल्लिखित भूमि में कोयला अभिप्राप्त किए जाने की संभावना है।

अतः, अब, केन्द्रीय सरकार कोयला धारण क्षेत्र (अर्थात् और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वेक्षण करने के अने आशय की सूचना देती है।

इस अधिसूचना के अंतर्गत आने वाले क्षेत्र का रेखांक सं., एस ई सी एल/बी एस पी जी एम (प्लानिंग)/लैण्ड/191, में तारीख 21 अगस्त, 1997 का निरीक्षण कलक्टर, बिलासपुर (मध्य प्रदेश) के कार्यालय में या कोयला निर्यातक 1, काउन्सिल हाउस स्ट्रीट, कलकत्ता 700001 के कार्यालय में या साउथ ईस्टर्न कोलकोरल्स लिमिटेड (राजस्व विभाग) सीपत रोड, बिलासपुर-495006 (मध्य प्रदेश) के कार्यालय में किया जा सकता है।

इस अधिसूचना के अंतर्गत आने वाली भूमि में, हितवद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी नक्शों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नब्बे दिन के भीतर भारसाधक अधिकारी/विभागाध्यक्ष (राजस्व), साउथ ईस्टर्न कोलकोरल्स लिमिटेड सीपत रोड, बिलासपुर-495006 (मध्य प्रदेश) को भेजेंगे।

अनुसूची
हरदी ब्लॉक
कोरवा फील्ड
गेवरा क्षेत्र

जिला बिलासपुर (मध्य प्रदेश)

रेखांक सं. एस ई सी एल/बी एस पी/जी एम/प्लानिंग/लेण्ड/191, तारीख 21 अगस्त, 1997 (सर्वेक्षण के लिए अधिसूचित)

क्रमांक सं.	ग्राम	पटवारी हल्का सं.	खेवट सं.	तहसील	जिला	क्षेत्र हेक्टर	टिप्पणी
1. रेंकी		29	55	कटघोरा	बिलासपुर	421.994	भाग
2. सुप्रा भोंडी		29	38	कटघोरा	बिलासपुर	38.717	भाग
3. मालगांव		39	37	कटघोरा	बिलासपुर	65.292	भाग
4. अमगांव		29	36	कटघोरा	बिलासपुर	220.000	भाग
5. हरदी बाजार		29	56	कटघोरा	बिलासपुर	428.997	पुरा
6. सरई सिंगार		29	57	कटघोरा	बिलासपुर	200.000	भाग
7. बम्हनी कोना		34	58	कटघोरा	बिलासपुर	40.000	भाग

कुल 145.00 हेक्टर लगभग
3496.47 या एकड़ (लगभग)

सीमा वर्णन :

- क-ख : रेखा ग्राम रेंकी में 'क' बिन्दु से आरम्भ होती है इसके पश्चात रेंकी, सुप्रा भोंडी, मालगांव, अमगांव ग्रामों से होकर गुजरती है तथा 'ख' बिन्दु पर मिलती है।
- ख-ग : रेखा ग्राम अमगांव से होकर गुजरती है इसके पश्चात ग्राम सरई सिंगार की पूर्वी सीमा के साथ-साथ चलती है तथा 'ग' बिन्दु पर मिलती है।
- ग-घ : रेखा सरईसिंगार, बम्हन कोना, रेंकी ग्रामों से होकर गुजरती है और 'घ' बिन्दु पर मिलती है।
- छ-क : रेखा ग्राम रेंकी से होकर गुजरती है तथा आरम्भ बिन्दु 'क' पर मिलती है।

[सं. 43015/19/97-एल. डब्ल्यू.]

श्रीमती पी.एल. सैनी, अवर सचिव

MINISTRY OF COAL

New Delhi, the 13th November, 1997

S.O. 2990.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act) the Central Government hereby gives notice of its intention to prospect for coal therein.

The plan bearing No. SECL(BSP)GM(PLG)[land] 191 dated the 21st August, 1997, of the area covered by this notification can be inspected in the Office of

the Collector, Bilaspur (Madhya Pradesh) or in the Office of the Coal Controller, 1, Council House Street, Calcutta-700 001 or in the Office of the South Eastern Coalfields Limited, Revenue Department, Seepat Road, Bilaspur-495006 (Madhya Pradesh).

All person interested in the land covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Officer-in-charge/Head of the Department (Revenue), South Eastern Coalfields Limited, Seepat Road, Bilaspur-495006 (Madhya Pradesh) within ninety days from the date of publication of this notification.

SCHEDULE
HARDI BLOCK
KORBA COALFIELDS
GEVRA AREA
DISTRICT—BILASPUR (MADHYA PRADESH)
Plan No. : SECL/BSP/GM(PLG)/LAND/191

Dated 21st August, 1997
(Notification for prospecting)

S. No.	Village	Patwari Halka Number	Khewat Number	Tahsil	District	Area in hectares	Remarks
1.	Renki	29	55	Katghora	Bilaspur	421.994	Part
2.	Suwabhondi	29	38	Katghora	Bilaspur	38.717	Part
3.	Malgaon	39	37	Katghora	Bilaspur	65.292	Part
4.	Amgaon	29	36	Katghora	Bilaspur	220.000	Part
5.	Hardibazar	29	56	Katghora	Bilaspur	428.997	Full
6.	Saraisingar	29	57	Katghora	Bilaspur	200.000	Part
7.	Bamnikona	34	58	Katghora	Bilaspur	40.000	Part

TOTAL : 1415.000 Hectares (approximately)

OR

3496.47 Acres (approximately)

Boundary Description

A—B	Line starts from point 'A' in village Renki, then passes through villages Renki, Suwabhondi, Malgaon, Amgaon and meets at point 'B'.
B—C	Line passes through village Amgaon, then along the eastern boundary of village Saraisingar and meets at point C.
C—D	Line passes through villages Saraisingar, Bamnikona, Renki and meets at point 'D'.
D—A	Line passes through village Renki and meets at the starting at point 'A'.

[No. 43015/19/97-LW]
Mrs. P.L. SAINI, Under Secy.

नई दिल्ली, 13 नवम्बर, 1997

का.शा. 2991.—केन्द्रीय सरकार को यह प्रतीत होता है कि इससे उपाय अनुसूची में उल्लिखित भूमि में कोयला अधिप्राप्त किए जाने की संभावना है,

अतः, अब, केन्द्रीय सरकार, कोयला धारक क्षेत्र (प्रजन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है कि धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए, उस क्षेत्र में कोयले का पूर्वक्षण करने के अपने आशय की सूचना देती है,

इस अधिसूचना के अंतर्गत आने वाले रेखांक सं. बी.एच./डब्ल्यू.बी./26 तारीख 4 जुलाई, 1997 का निरीक्षण कलकत्ता जिला बर्दवान (पश्चिम बंगाल) के कार्यालय में या कोयला निर्यातक, 1, काउन्सिल हाउस स्ट्रीट, कलकत्ता-700001 के कार्यालय में या निदेशक (तकनीकी परियोजना और योजनाई ईस्टर्न कोलफील्ड्स लिमिटेड) सैक्टोरिया डाकघर दिसेरगढ़ जिला बर्दवान (पश्चिम बंगाल) के कार्यालय में किया जा सकता है।

इस अधिसूचना के अंतर्गत आने वाली भूमि में, हितवद्ध सभी व्यक्ति उक्त अधिनियम की धारा 13 की उपधारा (7) में निर्दिष्ट सभी तकशों, चार्टों और अन्य दस्तावेजों को इस अधिसूचना के राजपत्र में प्रकाशन की तारीख से नव्वे दिन के भीतर भारमाधक अधिकारी/विभागाध्यक्ष (राजस्व) ईस्टर्न कोलफील्ड्स लि. सैक्टोरिया, डाकघर-दिसेरगढ़, जिला-बर्दवान (पश्चिम बंगाल) को भजेंगे।

अनुसूची

भान्द्रा पश्चिम ब्लॉक

सिरीपुर क्षेत्र कोयलरी

(रेखांक सं. बी.एच./डब्ल्यू. एम./26 तारीख 4 जुलाई, 1997)

क्रम सं. मोजा (ग्राम)	अधिकारिता सूची संख्या	थाना	जिला	क्षेत्र हैक्टर में	टिप्पणी
1. मजियारा	43	बाराबोती	बर्दवान	241	भाग
कुल क्षेत्र 241.00 हैक्टर (लगभग)					

सीमा वर्णन :

- क-ख : रेखा बिन्दु क से आरंभ होती है और मोजा मजियारा अधिकारिता सू. सं. 43 से होकर गुजरती है तथा बिन्दु 'ख' पर मिलती है।
- ख-ग : रेखा बिन्दु ख से आरंभ होती है मोजा मजियारा अधिकारिता सू. सं. 43 से होकर गुजरती है तथा बिन्दु 'ग' पर मिलती है।
- ग-घ : रेखा बिन्दु ग से आरंभ होती है मोजा मजियारा अधिकारिता सू. सं. 43 से होकर गुजरती है तथा बिन्दु 'घ' पर मिलती है।
- घ-क : रेखा बिन्दु 'घ' से आरंभ होती है, मोजा मजियारा अधिकारिता सू. सं. 43 से होकर गुजरती है और बिन्दु 'क' पर मिलती है।

[फा.सं. 43015/16/97-एल. डब्ल्यू.]

श्रीमती पी.एल. सैनी, अवर सचिव

New Delhi, the 13th November, 1997

S.O. 2991.—Whereas it appears to the Central Government that coal is likely to be obtained from the lands mentioned in the Schedule hereto annexed;

Now, therefore, in exercise of the powers conferred by sub-section (1) of Section 4 of the Coal Bearing Areas (Acquisition and Development) Act, 1957, (20 of 1957), (hereinafter referred to as the said Act), the Central Government hereby gives notice of its intention to prospect for coal therein;

The plan bearing number BH/WB/26, dated 4th July, 1997 of the area covered by this notification may be inspected in the Office of the Collector, District Burdwan (West Bengal) or in the Office of the Coal Controller, 1, Council House Street, Calcutta-700001 or in the Office of the Director (Technical) Project & Planning; Eastern Coalfields Limited, Sanctoria, Post Office :—Disergarh, District :—Burdwan (West Bengal).

All persons interested in the lands covered by this notification shall deliver all maps, charts and other documents referred to in sub-section (7) of section 13 of the said Act to the Officer-in-charge/Head of 2927 G1/97—2

the Department (Revenue), Eastern Coalfields Limited, Sanctoria, Post Office :—Disergarh, District :—Burdwan (West Bengal) within ninety days from the date of the publication of this notification in the Official Gazette.

SCHEDULE

BHANDRA WEST BLOCK COLLIERY OF SRIPUR AREA

(Plan Number BH/WB/26 dated 4th July, 1997)

Serial Number (Village)	Mouza List number	Jurisdiction District (Thana)	Police Station Hec- tares	Area in Remarks
1	Majiyara	43	Barabon Burdwan	241 Part.

Total area : 241.00 hectares (approximately)
Boundary description :—

A-B Line Starts from Point A passes through mouza—Majiyara, Jurisdiction List number 43 and meets at point B.

B-C Line starts from Point B passes through mouza-Majiara, Jurisdiction List number 43 and meets at Point C.

C-D Line starts from Point C passes through mouza—Majiara, Jurisdiction List number 43 and meets at Point D.

D-A Line starts from Point D passes through mouza—Majiara, Jurisdiction List number 43 and meets at Point A.

INo. 43015/16/97-LWI

MRS. P. L. SAINI, Under Secy.

आदेश

नई दिल्ली, 17 नवम्बर, 1997

का. भा. 2992.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन जारी की गई भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का. भा. 1056 तारीख, 28 मार्च, 1994 के, भारत के राजपत्र, भाग II, खंड 3, उपखंड (ii), तारीख 7 मई, 1994 में प्रकाशित होने पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि में (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) खनिजों के खनन, खदान, बोर करने, खुदाई करने, तलाश करने, उस पर काम करने और उन्हें ले जाने के अधिकारों को उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विलिंगमों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार का यह समाधान हो गया है कि वेस्टर्न कोल्फील्ड्स लिमिटेड, नागपुर जिसे इसमें इसके पश्चात् उक्त सरकारी कंपनी कहा गया है ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए राजामंद है;

अतः, अब, केन्द्रीय सरकार उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करने हुए, यह निदेश देती है कि उक्त भूमि में इस प्रकार निहित पूर्वोक्त अधिकार, तारीख 7 मई, 1994 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहने हुए, उक्त सरकारी कंपनी में निहित हो जाएंगे, यर्थात्:—

- (1) उक्त सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन अधीन अवधारित प्रतिकर, व्याज, नुकसानी और बैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रति-पूर्ति करेगी;
- (2) उक्त सरकारी कंपनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण

करने के प्रयोजन के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंधों में उपगत सभी व्यय, उक्त सरकारी कंपनी वहन करेगी और इसी प्रकार उक्त भूमि में इस प्रकार निहित अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों जैसे अपील आदि की बाबत उपगत सभी व्यय भी, उक्त सरकारी कंपनी वहन करेगी;

- (3) उक्त सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो उक्त भूमि में इस प्रकार निहित अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो, क्षतिपूर्ति करेगी;
- (4) उक्त सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि में के पूर्वोक्त अधिकार किसी अन्य व्यक्ति को अटर्नित करने की शक्ति नहीं होगी; और
- (5) उक्त सरकारी कंपनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा अब सभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित की जाएं, पालन करेगी।

[का. सं. 43015/11/90-एल. एम. डब्ल्यू.]

श्रीमती पी. एल. सैनी, अवसर सचिव

ORDER

New Delhi, the 17th November, 1997

S.O. 2992.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, number S.O. 1056 dated the 28th March, 1994, in the Gazette of India, Part-II, Section-3, Sub-Section (ii) dated the 7th May, 1994 issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the rights to mine, quarry, bore, dig and search for, win work and carry away minerals in the lands described in the Schedule appended to the said notification (hereinafter referred to as the said lands) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas the Central Government is satisfied that the Western Coalfields Limited, Nagpur (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act the Central Government hereby directs that the aforesaid rights in the said lands, so vested shall, with

effect from the 7th May, 1994 instead of continuing to so vest in the Central Government vest in the Government Company, subject to the following terms and conditions, namely:—

- (1) the Government Company shall reimburse the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
- (2) a tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the Government Company under condition (1), and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the Government Company and, similarly, all expenditure incurred in respect of all legal proceedings like appeals etc., for or in connection with the rights in the said lands so vesting shall also be borne by the Government Company;
- (3) the Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings, by or against the Central Government or its officials regarding the aforesaid rights, in the said lands, so vesting;
- (4) the Government Company shall have no power to transfer the aforesaid rights in the said lands, so vested, to any other person without the previous approval of the Central Government; and
- (5) the Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[No. 43015/11/90-LSW]

MRS. P. L. SAINI, Under Secy.

आदेश

नई दिल्ली, 17 नवम्बर, 1997

का.आ. 2993.—कोयला धारक क्षेत्र (अर्जन और विकास अधिनियम) 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन निकाली गई भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्या का.आ. 358 (अ), तारीख 20 अप्रैल, 1995 के, भारत के राजपत्र, भाग 2, खंड 3 उपखंड (ii) तारीख 20 अप्रैल, 1995 में प्रकाशित होने पर, उक्त अधिसूचना में संलग्न अनुसूची में वर्णित भूमि में (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) खनिजों के खनन, खदान, बोर करने, उनकी खुदाई कर और तलाश करने के लिए उन्हें प्राप्त करने, उन पर कार्य करने और उन्हें ले जाने के अधिकार उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन सभी जिल्लगमों में मुक्त होकर, आत्यन्तिक रूप से केन्द्रीय सरकार में निहित हो गए थे ;

केन्द्रीय सरकार का समाधान हो गया है कि वेस्टन कोलफील्ड्स लिमिटेड, नागपुर (जिसे इसमें इसके पश्चात् उक्त सरकारी कम्पनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए राजामंद है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि इस प्रकार निहित उक्त भूमि में उपर्युक्त अधिकार, तारीख 20 अप्रैल, 1995 से केन्द्रीय सरकार में इस प्रकार निहित कर बने रहने की बजाय निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कम्पनी में निहित हो जाएंगे, अर्थात्

- (1) उक्त सरकारी कम्पनी, उक्त अधिनियम के उपबंधों के अधीन यथा प्रवर्धमान प्रतिकार, व्याज, नुकसानी और वैसे ही मर्तों की बाबत किए गए सभी संशयों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;
- (2) उक्त सरकारी कम्पनी द्वारा शर्त (1) के अधीन केन्द्रीय सरकार को संवेय रकमों का अवधारण करने के प्रयोजन के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे अधिकरण और ऐसे अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, उक्त कम्पनी वहन करेगी और इस प्रकार, निहित उक्त भूमि के लिए या उसमें अधिकारों के संबंध में सभी विधिक कार्यवाहियों, जैसे अपील आदि की बाबत उपगत सभी व्यय भी उक्त सरकारी कम्पनी वहन करेगी;
- (3) उक्त सरकारी कम्पनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो इस प्रकार निहित उक्त भूमि में उपर्युक्त अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो, प्रतिपूर्ति करेगी;
- (4) उक्त सरकारी कम्पनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि में इस प्रकार निहित उपर्युक्त अधिकार किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और
- (5) उक्त सरकारी कम्पनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित की जाएं पालन करेगी ।

[का. सं. 43015/3/89-एन. एस. डब्ल्यू]

श्रीमति पी. एल. सीनी, अवर सचिव

ORDER

New Delhi, the 17th November, 1997

S.O. 2993.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, number S.O. 358 (E), dated the 20th April, 1995 in the Extra-ordinary Gazette of India, Part-II, Section 3, Sub-Section (ii) dated the 20th April 1995 issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the rights to mine, quarry bore, dig, and search for, win, work and carry away minerals in the lands described in the Schedule appended to the said notification (hereinafter referred to as the said lands) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas the Central Government is satisfied that the Western Coalfields Limited, Nagpur (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section 9(1) of section 11 of the said Act, the Central Government hereby directs that the aforesaid rights in the said lands, so vested, shall, with effect from the 20th April, 1995 instead of continuing to so vest in the Central Government vest in the Government Company, subject to the following terms and conditions, namely :—

- (1) the Government Company shall reimburse the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
- (2) a tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the Government Company under condition (1), and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal, shall be borne by the Government Company and, similarly, all expenditure incurred in respect of all legal proceedings like appeals etc., for or in connection with the rights in the said lands, so vesting shall also be borne by the Government Company;
- (3) the Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings, by or against the Central Government or its officials regarding the aforesaid rights, in the said lands, so vesting;
- (4) the Government Company shall have no power to transfer the aforesaid rights in the said lands, so vested, to any other person without the previous approval of the Central Government; and
- (5) the Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[No. 43015/3/89-LSW]

MRS. P. L. SAINI, Under Secy.

आदेश

नई दिल्ली, 19 नवम्बर, 1997

का. आ. 2994.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन निकाली गई भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का. आ. 1754, तारीख 15 मई, 1996 के,

भारत के राजपत्र, भाग 2, खण्ड 3, उपखण्ड (ii), तारीख 15 जून, 1996 में प्रकाशित होने पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और ऐसी भूमि में या उस पर के अधिकार (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन सभी क्लिंकिंगों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और केन्द्रीय सरकार का यह समाधान हो गया है कि सेंट्रल कोलफील्ड्स लिमिटेड, रांची (जिसे इसमें इसके पश्चात् उक्त सरकारी कंपनी कहा गया है) ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए राजा मंद है,

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि इस प्रकार निहित उक्त भूमि और उक्त भूमि में या उस पर के अधिकार, तारीख 15 जून, 1996 में केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, उक्त सरकारी कंपनी में निहित हो जाएंगे, अर्थात् :—

- (1) उक्त सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन अवधारित प्रतिकर, व्याज, नुकसानी और वैसी ही मदों की बाबत किए गए सभी संधियों को केन्द्रीय सरकार को प्रतिपूर्ति करेगी;
- (2) उक्त सरकारी कंपनी द्वारा शर्त (1) के अधीन केन्द्रीय सरकार को संधि रकमों का अवधारण करने के प्रयोजन के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय; उक्त कंपनी वहन करेगी और इसी प्रकार; इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में सभी विधिक कार्यवाहियों, जैसे अपील आदि की बाबत उपगत सभी व्यय भी, उक्त सरकारी कंपनी वहन करेगी;
- (3) उक्त सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो क्षतिपूर्ति करेगी;
- (4) उक्त सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि अधिकार किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और

- (5) उक्त सरकारी कंपनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाए, या अधिरोपित की जाए, पालन करेगी।

[फा. सं. 43015/10/91-एल. एस. डब्ल्यू.]

श्रीमती पी. एल. सैनी, अवर सचिव

ORDER

New Delhi, the 19th November, 1997

S.O. 2994.—Whereas on the publication of the Notification of the Government of India in the Ministry of Coal number S.O. 1754 dated the 15th May, 1996 in the Gazette of India, Part II, Section 3, Sub-Section (ii) dated the 15th June, 1996, issued under sub-section (1) of Section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands and rights in or over such lands described in the schedule appended to the said notification (hereinafter referred to as the said lands) vested absolutely in the Central Government free from all encumbrance under sub-section (1) of section 10 of the said Act;

And whereas the Central Government is satisfied that the Central Coalfields Limited, Ranchi (hereinafter referred to as the said Government Company), is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the said lands and rights so vested shall, with effect from the 15th June, 1996, instead of continuing to so vest in the Central Government, shall vest in the said Government Company, subject to the following terms and conditions, namely :—

- (1) The said Government Company shall reimburse the Central Government all payments made in respect of compensation interest damages and the like, as determined under the provisions of the said Act;
- (2) A tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the said Government Company under condition (1) above and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the said Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with rights in or over the said lands so vested shall also be borne by the said Government Company;

tion with rights in or over the said lands so vested shall also be borne by the said Government Company;

- (3) The said Government Company shall indemnify the Central Government and its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vested;
- (4) The said Government Company shall have no power to transfer the said lands to any other person without the previous approval of the Central Government;
- (5) The said Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[No. 43015/10/91-LSW]

MRS. P. L. SAINI, Under Secy.

आदेश

नई दिल्ली, 19 नवम्बर, 1997

का० आ० 2995.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 उपधारा (1) के अधीन निकाली गई भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का०आ० 406, तारीख 28 जनवरी, 1997 के, भारत के राजपत्र, भाग II, खंड 3, उपखण्ड (ii), तारीख 15 फरवरी, 1997 में प्रकाशित होने पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और ऐसी भूमि में या उस पर के सभी अधिकार (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विलगनों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार का यह समाधान हो गया है कि वेस्टर्न कोलफील्ड्स लि. नागपुर (जिसे इसमें इसके पश्चात् उक्त सरकारी कंपनी कहा गया है) ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए राजामंद है;

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि इस प्रकार निहित उक्त भूमि और ऐसी भूमि में या उस पर के सभी अधिकार, तारीख 15 फरवरी, 1997 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय, निम्नलिखित निबंधनों और शर्तों के अधीन रहने हुए, उक्त सरकारी कंपनी में निहित हो जाएंगे, अर्थात् :—

- (1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन अवधारित प्रतिफल, व्याज, नुकसानों और वैसे ही सदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी,
- (2) सरकारी कंपनी द्वारा जर्न (1) के प्रदान, केन्द्रीय सरकार को गंदेय रकमों का अवधारण करने के प्रयोजन के लिए एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंधों में उपगत सभी व्यय, सरकारी कंपनी वहन करेगी और इसी प्रकार, इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में सभी विधिक कार्य-बाहियों, जैसे अधीन आदि की बाबत उपगत सभी व्यय भी, सरकारी कंपनी वहन करेगी ;
- (3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यबाहियों के संबंध में आवश्यक हो, क्षति-पूर्ति करेगी ;
- (4) सरकारी कंपनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमि अधिकार किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी और
- (5) सरकारी कंपनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित की जाएं, पालन करेगी :

[फा. सं. 43015/19/93—एल. एस. डब्ल्यू.]

श्रीमती पी. एल. सेनी, अवसर सचिव

ORDER

New Delhi, the 19th November, 1997

S.O. 2995.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal No. S.O. 406 dated the 28th January, 1997 in the Gazette of India, Part-II, Section-3, Sub-section (ii) dated the 15th February, 1997, issued under Sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands and all rights in or over such lands, described in the Schedule appended to the said notification (hereinafter

referred to as the said lands) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas the Central Government is satisfied that the Western Coalfields Limited, Nagpur (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that said lands and all rights in or over such lands so vested shall, with effect from the 15th February, 1997, instead of continuing to so vest in the Central Government, vest in the Government Company, subject to the following terms and conditions, namely:—

1. The Government Company shall reimburse the Central Government all payments made in respect of compensation, interest, damaged and the like, as determined under the provisions of the said Act.
2. A tribunal shall be constituted for the purpose of determining the amounts payable to the Central Government by the Government Company under condition (1) and all expenditure incurred in connection with any such tribunal and persons appointed to assist the tribunal shall be borne by the Government Company and, similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in or over the said lands so vesting shall also be borne by the Government Company.
3. The Government company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vesting.
4. The Government company shall have no power to transfer the said lands to any other person without

the previous approval of the Central Government.

5. The Government company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[No. 43015/19/93--LSW]

MRS. P. L. SAINI, Under Secy.

जल भूतल परिवहन मंत्रालय

(नौवहन मसनिदेशालय)

मुम्बई, 19 नवम्बर, 1997

(वाणिज्य पोत परिवहन)

का.प्रा. 2996.—वाणिज्य पोत परिवहन (नाविक रोजगार कार्यालय) नियम, 1986 के नियम 3 के साथ पठित, भारत सरकार, जल भूतल परिवहन मंत्रालय की अधिसूचना सं. एस डब्ल्यू/एम डब्ल्यू एस-40/85-एम टी दिनांक 22 अप्रैल, 1988 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, नौवहन महानिदेशक, इस अधिसूचना के शासकीय राजपत्र में प्रकाशन की तारीख से, दो वर्ष की अवधि के लिए मुम्बई पत्तन पर एतद्वारा नाविक रोजगार बोर्ड (विदेशगामी) स्थापित करते हैं, जिसमें निम्नलिखित सदस्य हैं ; अर्थात् :—

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|---|---|
| 1. नौवहन महानिदेशक | सरकार का प्रतिनिधित्व करने वाले सदस्य |
| 2. उप नौवहन महानिदेशक, नाविक रोजगार कार्यालय, मुम्बई के प्रभारी | |
| 3. श्रम आयुक्त, मुम्बई | |
| 4. नाविक पात्र, मुम्बई | |
| 5. निदेशक, नाविक रोजगार कार्यालय, मुम्बई | |
| 6. पत्तन स्थायी अधिकारी, मुम्बई | |
| 7. कप्तान पी. के. देशपांडे
(मैसर्स ग्रेट इस्टर्न शिपिंग कं. लि., मुम्बई) | पोत स्वामियों का प्रतिनिधित्व करने वाले सदस्य |
| 8. श्री पी. डब्ल्यू. सावंत
(शिपिंग कार्पोरेशन लि., मुम्बई) | |
| 9. कप्तान ई. बी. परेरा
(मैसर्स जे. एम. बक्सरी एंड कं. लि., मुम्बई) | |
| 10. कप्तान ए. बल्ला
(मैसर्स किल्लिक निक्सन लि., मुम्बई) | |

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|---|--|
| 11. कप्तान ई. थोमस
(मैसर्स इन्डस शिपिंग प्रा. लि., मुम्बई) | विदेशी पोत स्वामियों का प्रतिनिधित्व करने वाले सदस्य |
| 12. कप्तान डी. बी. लाऊड
(मैसर्स इंडियन ओशन शिपमैनेजमेंट प्रा. लि., मुम्बई) | |
| 13. डॉ. लियो बार्न | नाविकों का प्रतिनिधित्व करने वाले सदस्य |
| 14. श्री एम. टी. जोसेफ | |
| 15. श्री थॉमस ग्रन्थोनी | |
| 16. श्री मारुति रेघरेकर | |
| 17. श्री अरुण मोर्जे | |
| 18. श्री डेनिस वाज | |

नौवहन महानिदेशक और उप नौवहन महानिदेशक प्रभारी नाविक रोजगार कार्यालय, मुम्बई उपायुक्त बोर्ड के क्रमशः अध्यक्ष और उपाध्यक्ष होंगे। निदेशक, नाविक रोजगार कार्यालय, मुम्बई उपायुक्त बोर्ड के सदस्य सचिव होंगे।

[सं. 24(1)-सी आर/90-वाल्जूम-II]

प्रवीण अग्रवाल, वरिष्ठ उप नौवहन महानिदेशक

MINISTRY OF SURFACE TRANSPORT (Directorate General of Shipping)

Mumbai, the 19th November, 1997

(MERCHANT SHIPPING)

S.O. 2996.—In exercise of the powers conferred by Rule 3 of the Merchant shipping (Seamen's Employment Office) Rules, 1986 read with the Notification of the Government of India in the Ministry of Surface Transport No. SW/MWS-40/85-MT dated the 22nd April, 1988 the Director General of Shipping hereby appoints Seamen's Employment Board (Foreign Going) at the port of Mumbai for a period of two years with effect from the date of application of this Notification in the Official Gazette, consisting of the following members namely :—

- | | |
|---|---------------------------------|
| 1. The Director General of Shipping | Members representing Government |
| 2. The Dy. Director General of Shipping In-charge of Seamen's Employment Office, Mumbai | |
| 3. The Labour Commissioner, Mumbai | |
| 4. The Shipping Master, Mumbai | |

5. The Director Seamen's Employment Office, Mumbai.	}	Member
6. The Port Health Officer, Mumbai.		representing Government
7. Capt. P. K. Deshpande (M/s. Great Eastern Shipping Co. Ltd., Mumbai)	}	
8. Mr. P. W. Sawant (The SCI Ltd., Mumbai)		Members
9. Capt. E. B. Pereira (M/s. J. M. Baxi and Co. Mumbai)	}	representing Shipowners
10. Capt. A. Batra (M/s. Killick Nixon Ltd., Mumbai)		
11. Capt. E. Thomas (M/s. Indus Shipping Pvt. Ltd., Mumbai)	}	Members
12. Capt. D. B. Laud (M/s. Indian Ocean Shipmanagement Pvt. Ltd., Mumbai)		representing Foreign Shipowners

13. Dr. Leo Barnes	}	Members
14. Shri M. T. Joseph		
15. Shri Thomas Anthony	}	representing Seamen
16. Shri Maruti Rethrekar		
17. Shri Arun Morje	}	
18. Shri Denis Vaz		

The Director General of Shipping and the Dy. Director General of Shipping In-charge of the Seamen's Employment Office, Mumbai shall respectively be the Chairman and the Vice-Chairman of the aforesaid board. The Director Seamen's Employment Office, Mumbai shall be the Member secretary of the aforesaid board.

[No. 24(1)CR/90-Vol-I]

PRAVEEN AGARWAL, Sr. Dy. Director
General of Shipping.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 17 नवम्बर, 1997

कां.आ. 2997.--पेट्रोलियम और गैस निज प्रापलाहन अधिनियम, 1962 की धारा 17 के अन्तर्गत पेट्रोलियम प्रापलाहन (भूमि में उपयोग के अधिकार का अर्जन) नियम, 1963 के स्पष्टीकरण के अन्तर्गत नियम 4 के प्रावधान के अनुसरण में, मैं एन० एम० परमार, सक्षम अधिकारी, रंस अधॉरिटी ऑफ इंडिया लिमिटेड, बड़ौदा के परामर्श से, जिसे उस क्षेत्र में भूमि के उपयोग का अधिकारी प्रदान किया गया है अथवा उस क्षेत्र में प्रापलाहन का स्वामित्व प्रदान है, जैसा भी मामला हो, एतद्वारा घोषणा करता हूँ कि गैस प्रापलाहन के विधाने संबंधी कार्य के समापन की तारीख नीचे दी गई अनुसूची के कॉलम-8 में दिए अनुसार है :

अनुसूची

क्रम	प्रापलाहन का नाम	ग्राम का नाम	तहसील	जिला	राजपत्र में खंड 6(i) के तहत प्रकाशन की तारीख	कां.आ. सं.	समापन कार्य की तारीख
1.	पुनासन जी०जी० एम. से विमल डायल	1. हडवा श्रुमंत	मेहसाणा	मेहसाणा	7-12-96	3374	11.2.97
		2. ओभासन	मेहसाणा				
		3. देवदुवा	मेहसाणा				
		4. पुनासन	मेहसाणा				

[सं० एन-14016/02/96-बीपी]

आई० एम० एन० प्रसाद, उप सचिव

MINISTRY OF PETROLEUM & NATURAL GAS

New Delhi, the 17th November, 1997

S.O. 2997.—In pursuance of provision, of Rule 4 under explanation of the Petroleum Pipelines (Acquisition of Right of user in Land) Rules 1963 framed under section 17 of the Petroleum and Minerals Pipeline Act 1962, I.N.M. Parmar, Competent Authority in consultation with the Gas Authority of India Ltd., Baroda with whom the Right of User in the land in that area has vested or ownership of the pipeline in that area vest as the case may be, hereby declare the date of termination of laying of gas pipeline as mentioned in column 8 of the schedule appended below :—

SCHEDULE

Sl. No.	Name of the Pipeline	Name of the Village	Teh.	Distt.	Date of Publication under 6(i)	S.O. NO.	Date of Termination of Operat
1	Punasan GGS to Vimal Oil	Haduya Hanuman Sobhasan Hebuva Punasan	Mehsana	Mehsana	7-12-96	3374	11-2-97

[No. I-14016/02/96-G.P.]

I. S. N. PRASAD, Dy. Secy.

नई दिल्ली, 17 नवम्बर, 1997

का० आ० 2998.—पेट्रोलियम और खनिज पाप लाइन (भूमि के उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का०आ० 1048 तारीख 19-4-97 द्वारा भारत सरकार के उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों के अधिकार को पाप लाइन बिछाने के लिए अर्जित करने की आवश्यक घोषित किया था।

अतः सक्षम अधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) अधीन सरकार को रिपोर्ट दे दी है।

तत्पश्चात् भारत सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमियों के उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अथ अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारत सरकार द्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाप लाइन बिछाने के प्रयोजन के लिए एतद्वारा अर्जित किया जाता है।

हम धारा की उपधारा (4) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए भारत सरकार निर्देश देती है कि उक्त भूमियों में अधिकार भारत सरकार में निहित होने के बजाय गैस अधॉरिटी ऑफ इंडिया लिमिटेड में सभी आवाजों से मुक्त रूप में घोषणा के प्रकाशन की इस तारीख को निहित होगा ।

अनुसूची

डी० पी० एम पलायड से गजीता रील बंस० प्रा० लि० और प्रवानी केमिकल

राज्य : गुजरात

तालुका : कानोल

जिला : मेहसाणा

गांव	सर्वे प्लॉट नं०	आर० ओ० यू० का एरिया		
		हरेयर	आरे	मेरी आरे
पलीयड	1305	00	09	75
कच्छा राड		00	02	30
		00	12	05

[सं० एल-14016/01/97-जी०पी०]

आई० एम. एल० प्रसाद, उप सचिव

New Delhi, the 17th November, 1997

S.O. 2998.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. 1048, dated 19-4-1997 under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act 1962 (50 of 1962) the Central Government declared its intention to acquire the right of user in the lands specified in the schedule appended to that notification for purpose of laying pipeline.

And whereas the Competent Authority has under sub-section (1) of section 6 of the said Act, submitted report to the Government.

And further whereas the Central Government has, after considering the said report, decided to acquire

the right of user in the lands specified in the schedule appended to this notification.

Now, therefore, in exercise of the power conferred by sub-section (1) of the section 6 of the said Act, the Central Government hereby declares that right of User in the said lands, specified in the Schedule to this appended notification hereby acquired for laying the pipeline.

And further in exercise of power conferred by sub-section (4) of that section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Gas Authority of India Ltd. free from all encumbrances.

SCHEDULE

TPS PALIYAD TO AJITA SIL CHEM. PVT. LTD. AND BHAVANI CHEMICAL

STATE : GUJARAT

TAL : KALOL

DIST. : MEHSANA

Village	Survey No./ Block No.	Area of R.O.U.		
		Hectare	Are	Centiare
Paliyad	1305	00	09	75
	Kachha Road	00	02	30
		00	12	05

[No. L-14016/01/97-G.P.]

I. S. N. PRASAD, Dy. Secy.

नई दिल्ली, 17 नवम्बर, 1997

कां.आ. 2999-पेट्रोलियम एवं खनिज पारपलाहन (भूमि के उपयोग के अधिकार का अर्जन) अधिनियम, 1962 की धारा 17 के अधीन बनाये गये पेट्रोलियम एवं खनिज पारपलाहन (भूमि के उपयोग के अधिकार का अर्जन) नियमावली, 1963 के नियम 4 के नीचे दिये गये स्पष्टीकरण के प्रावधानों के अन्तर्गत में एम० एस० ब्राह्मजा महाम प्राधिकारी रैस अशरिदी आप. इंडिया लिमिटेड दू० पी०पी० सी० पास जिसमें भूमि के उपयोग का अधिकारहित हो चुका है अथवा उस क्षेत्र की पारपलाहन का स्वामित्व जसमें निहित है जैसा भी हो की परामर्श से एतद्वारा निम्नलिखित अनुसूची के स्तम्भ 7 में दर्शायी गई तिथि से पाईपलाइन बिछाने के कार्य की समाप्ति की घोषणा करता है।

अनुसूची

क्रमांक	पारपलाहन का नाम	ग्राम का नाम	जिले का नाम	धारा 6 के अधीन विज्ञापित प्रकाशन या दिनांक	का.आ. नम्बर	कार्य समाप्ति घोषणा की तिथि
1.	परिणुद्ध अल निकासी पाइप लाइन	1. बानपुर प.पू.द इटावा	इटावा	07-10-95	2683	29-09-97
		2. चकसाह	इटावा	07-10-95	2683	29-09-97
		3. मनेपुर प.पू.द	इटावा	07-10-95	2683	29-09-97
		4. अकवरपुर टाडा	इटावा	07-10-97	2683	29-09-97
		5. बदुआ	इटावा	07-10-95	2683	29-09-97
		6. गदनपुर	इटावा	07-10-95	2683	30-09-97
		7. धरमपुर	इटावा	07-10-95	2683	30-09-97
		8. नमला पाटक	इटावा	07-10-95	2683	30-09-97
		9. आगरी दरगाह	इटावा	17-2-96	473	30-09-97

[सं० एल-14016/17/94-जी० पी०]

आई० एम० एन० प्रसाद, उप सचिव

New Delhi, the 17th November, 1997

S.O. 2999.—In pursuance of provision of Rule 4 under explanation of the Petroleum Pipeline (Acquisition of Right of User in Land) Rules, 1963 framed under section 17 of the Petroleum and Minerals Pipeline Act, 1962. I. S. S. Ahuja, Competent Authority in consultation with the Gas Authority of India Ltd. UPPC, Pata with whom the right of user in the land in the area has vested or ownership of the pipeline in that area vest as the case may be, hereby declares the date of termination of laying of gas pipeline as mentioned in column 7 of the schedule mentioned below :

SCHEDULE

Sl. No.	Name of the P/L	Name of the Village	Distt.	Date of publication under section 3(i)	S. O. No.	Date of termination of operation
1	2	3	4	5	6	7
A	Treated waste water disposal pipeline	(i) Khanpur Phaphund	Etawah	7-10-95	2683	29-9-97
		(ii) Chaksahu	Etawah	7-10-95	2683	29-9-97
		(iii) Manepur Phaphund	Etawah	7-10-95	2863	29-9-97
		(iv) Akbarpur Tanda	Etawah	7-10-95	2683	29-9-97
		(v) Badua	Etawah	7-10-95	2683	29-9-97
		(vi) Gadanpur	Etawah	7-10-95	2683	30-9-97
		(vii) Dharmpur	Etawah	7-10-95	2683	30-9-97
		(viii) Nagla Pathai	Etawah	7-10-95	2683	30-9-97
		(ix) Arazi Dargah	Etawah	17-02-96	473	30-9-97

[No. L-14016/17/94-G.P.]

I. S. N. PRASAD, Dy. Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 19 नवम्बर, 1997

का. आ. 3000.- केन्द्रीय सरकार ने, पेट्रोलियम और खनिज पाइप-लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 1675, तारीख 19 जून, 1997 द्वारा पेट्रोलियम के परिवहन के लिए पाइपलाइन बिछाने के प्रयोजनार्थ उक्त अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार के अर्जन के अपने आशय की घोषणा की थी;

और, उक्त राजपत्रित अधिसूचना की प्रतियां जनता को तारीख 5 जुलाई 1997 को उपलब्ध करा दी गई थी;

और, उक्त अधिनियम की धारा 6 की उपधारा (1) के अनुसरण में सक्षम प्राधिकारी ने केन्द्रीय सरकार को अपनी रिपोर्ट दे दी है;

और, केन्द्रीय सरकार का उक्त रिपोर्ट पर विचार करने के पश्चात् यह समाधान हो गया है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार का अर्जन किया जाना चाहिए;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में उपयोग के अधिकार अर्जित करने की घोषणा करती है;

यह और कि केन्द्रीय सरकार, उक्त अधिनियम की धारा 6 की उप धारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार, केन्द्रीय सरकार में निहित होने की बजाए, सभी विल्लगनों से मुक्त होकर भारत ओमान रिफाइनरीज लिमिटेड में निहित होगा।

अनुसूची

तालुका: मोरबी	जिला: राजकोट	राज्य: गुजरात
गांव का	सर्वेक्षण सं./	क्षेत्र
नाम	खंड सं.	हेक्टर आरे सेन्टीआरे
(1)	(2)	(3) (4) (5)
जोधपर (जाला)	219 पैकी	0 16 55

(1)	(2)	(3)	(4)	(5)
	219 पैकी	0	54	38
	219 पैकी	0	25	02
	219 पैकी	0	18	20
	218 पैकी	0	16	20
	217 पैकी	0	27	70
	217 पैकी	0	28	13
	214/1 पैकी	0	04	00
	215 पैकी	0	37	70
	215 पैकी	0	23	65
	215 पैकी	0	16	05
	194	0	61	80
	193 पैकी	0	21	25
	193 पैकी	0	21	25
	185 पैकी	0	51	10
	185 पैकी	0	79	10
	175 पैकी	0	54	60
	175 पैकी	0	59	10
	174 पैकी	0	13	00
	174 पैकी	0	40	70
रोहीशाला	195	0	76	35
	196	0	05	00
	201	0	58	82
	200	0	50	37
	202/1 पैकी	0	10	50
	202/1 पैकी	0	10	50
	202/1 पैकी	0	15	30
	203	0	27	30
	204 पैकी	0	09	60
	204 पैकी	0	09	60
	204 पैकी	0	16	80
	205	0	16	21
	206	0	00	24
	209	0	11	83
	210	0	24	12
	211	0	13	50
	213	0	03	38
	175	0	18	19
	174 पैकी	0	42	11
	171/1	0	27	60
	169	0	03	80
	161	0	15	30
	162/1	0	33	20
	168/1	0	16	55

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	406/1 पैकी	0	09	42		643	0	05	94
	406/1 पैकी	0	09	44		665	0	50	45
	406/1 पैकी	0	09	42	हमीरपर	5	0	14	40
	405	0	01	72		6/1	0	33	00
	403 पैकी	0	12	00		6/3	0	18	00
	403 पैकी	0	34	20		9 पैकी	0	30	15
	403 पैकी	0	12	00		9 पैकी	0	16	95
	5 पैकी	0	36	55		30/2	0	00	85
	6/1 पैकी	0	02	10		30/1	0	23	00
	6/1 पैकी	0	04	68		29	0	62	55
	6/1 पैकी	0	13	77		71/1 पैकी	0	22	00
	27/5	0	21	00		71/1 पैकी	0	22	40
	27/4	0	10	50		71/1 पैकी	0	18	60
	27/3	0	05	55		81/1 पैकी	0	08	80
	15	0	10	50		77/1 पैकी	0	06	33
	22 पैकी	0	35	10		80/1	0	22	85
	21 पैकी	0	51	00		97	0	38	40
	20 पैकी	0	31	80		82/1 पैकी	0	01	10
	17	0	49	57		82/1 पैकी	0	00	83
नेकनाम	456	0	25	50		96	0	51	77
	455	0	01	72		106 पैकी	0	06	00
	457	0	23	78		106 पैकी	0	41	70
	459	0	27	70		107	0	46	80
	450	0	16	50		108/1 पैकी	0	23	10
	448	0	04	97		108/1 पैकी	0	21	60
	446	0	45	66		108/1 पैकी	0	22	80
	472	0	39	00	छ तर	197/2	0	01	15
	473	0	22	00		197/4 पैकी	0	19	82
	692	1	26	75		197/4 पैकी	0	48	52
	495	0	13	76		199/पैकी	0	12	63
	498	0	07	80		200 पैकी	0	66	60
	496	0	01	75		200 पैकी	0	62	07
	497/1	0	07	20		187 पैकी	0	11	35
	558/1 पैकी	0	13	08		187 पैकी	0	04	50
	494/1 पैकी	0	16	90		187 पैकी	0	34	40
	494/1 पैकी	0	17	80		204/1	0	21	30
	494/2 पैकी	0	01	90		204/2	0	13	20
	558/1 पैकी	0	03	23		204/3	0	14	00
	561 पैकी	0	34	49		204/4	0	23	70
	561 पैकी	0	22	00		204/5 पैकी	0	27	00
	645 पैकी	0	12	30		204/5 पैकी	0	45	30
	562	0	12	30		217 पैकी	0	50	00
	644 पैकी	0	51	44		228 पैकी	0	07	80
						228/1	0	13	80

(1)	(2)	(3)	(4)	(5)
	222 पैकी	0	39	00
	222 पैकी	0	10	80
	228 पैकी	0	63	60

[फा. सं. आर-31015/6/97-ओआर. II]

के. सी. कटोच, अवर सचिव

Ministry of Petroleum and Natural Gas

New Delhi, the 19th November, 1997

S.O. 3000 :- Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas No. S. O. 1675 dated the 19th June 1997, issued under sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), (hereinafter referred to as the said Act), the Central Government declared its intention to acquire the right of user in the lands specified in the Schedule appended to that notification for the purpose of laying pipeline for the transport of petroleum:

And whereas, the copies of the said gazette notification were made available to the public on the 5th day of July, 1997;

And whereas, the Competent authority in pursuance of sub-section (1) of section 6 of the said Act has made his report to the Central Government;

And whereas, the Central Government after considering the said report is satisfied that the right of user in the lands specified in the Schedule appended to this notification should be acquired;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 6 of the said Act, the Central Government hereby declares that the right of user in the lands specified in the Schedule appended to this notification are hereby acquired,

And further in exercise of the powers conferred by sub-section (4) of section 6 of the said Act, the Central Government hereby directs that the right of user in the said lands shall instead of vesting in the Central Government, vest, free from all encumbrances, in the Bharat Oman Refineries Limited;

Schedule				
Taluka: Morbi District: Rajkot State: Gujarat				
Name of Village	Survey/Block Number	Area		
		Hectare	Are	Centare
(1)	(2)	(3)	(4)	(5)
Jodhpar(Jhala)	219 Paiki	0	16	55
	219 Paiki	0	54	38
	219 Paiki	0	25	02
	219 Paiki	0	18	20
	218 Paiki	0	16	20
	217 Paiki	0	27	70
	217 Paiki	0	28	13
	214/1 Paiki	0	04	00
	215 Paiki	0	37	70
	215 Paiki	0	23	65
	215 Paiki	0	16	05
	194	0	61	80
	193 Paiki	0	21	25
	193 Paiki	0	21	25
	185 Paiki	0	51	10
	185 Paiki	0	79	10
	175 Paiki	0	54	60
	175 Paiki	0	59	10
	174 Paiki	0	13	00
	174 Paiki	0	40	70
Rohishala	195	0	76	35
	196	0	05	00
	201	0	58	82
	200	0	50	37
	202/1 Paiki	0	10	50
	202/1 Paiki	0	10	50
	202/1 Paiki	0	15	30
	203	0	27	30
	204 Paiki	0	09	60
	204 Paiki	0	09	60
	204 Paiki	0	16	80
	205	0	16	21
	206	0	00	24
	209	0	11	83
	210	0	24	12
	211	0	13	50
	213	0	03	38
	175	0	18	19
	174 Paiki	0	42	11
	171/1	0	27	60
	169	0	03	80
	161	0	15	30
	162/1	0	33	20

(1)	(2)	(3)	(4)	(5)	(1)	(2)	(3)	(4)	(5)
	168/1	0	16	55		6/1	0	33	00
	406/1 Paiki	0	09	42		6/3	0	18	00
	406/1 Paiki	0	09	44		9 Paiki	0	30	15
	406/1 Paiki	0	09	42		9 Paiki	0	16	95
	405	0	01	72		30/2	0	00	85
	403 Paiki	0	12	00		30/1	0	23	00
	403 Paiki	0	34	20		29	0	62	55
	403 Paiki	0	12	00		71/1 Paiki	0	22	00
	5 Paiki	0	36	55		71/1 Paiki	0	22	40
	6/1 Paiki	0	02	10		71/1 Paiki	0	18	60
	6/1 Paiki	0	04	68		81/1 Paiki	0	08	80
	6/1 Paiki	0	13	77		77/1 Paiki	0	06	33
	27/5	0	21	00		80/1	0	22	85
	27/4	0	10	50		97	0	38	40
	27/3	0	05	55		82/1 Paiki	0	01	10
	15	0	10	50		82/1 Paiki	0	00	83
	22 Paiki	0	35	10		96	0	51	77
	21 Paiki	0	51	00		106 Paiki	0	06	00
	20 Paiki	0	31	80		106 Paiki	0	41	70
	17	0	49	57		107	0	46	80
Neknam	456	0	25	50		108/1 Paiki	0	23	10
	455	0	01	72		108/1 Paiki	0	21	60
	457	0	23	78		108/1 Paiki	0	22	80
	459	0	27	70	Chhatar	197/2	0	01	15
	450	0	16	50		197/4 Paiki	0	19	82
	448	0	04	97		197/4 Paiki	0	48	52
	446	0	45	66		199/Paiki	0	12	63
	472	0	39	00		200 Paiki	0	66	60
	473	0	22	00		200 Paiki	0	62	07
	692	1	26	75		187 Paiki	0	11	35
	495	0	13	76		187 Paiki	0	04	50
	498	0	07	80		187 Paiki	0	34	40
	496	0	01	75		204/1	0	21	30
	497/1	0	07	20		204/2	0	13	20
	558/1 Paiki	0	13	08		204/3	0	14	00
	494/1 Paiki	0	16	90		204/4	0	23	70
	494/1 Paiki	0	17	80		204/5 Paiki	0	27	00
	494/2 Paiki	0	01	90		204/5 Paiki	0	45	30
	558/1 Paiki	0	03	23		217 Paiki	0	50	00
	561 Paiki	0	34	49		228 Paiki	0	07	80
	561 Paiki	0	22	00		228/1	0	13	80
	645 Paiki	0	12	30		222 Paiki	0	39	00
	562	0	12	30		222 Paiki	0	10	80
	644 Paiki	0	51	44		228 Paiki	0	63	60
	643	0	05	94					
	665	0	50	45					
Hamirpar	5	0	14	40					

[File No. R-31015/6/97-OR.II]

K. C. Katoch, Under Secy.

श्रम मंत्रालय

नई दिल्ली, 31 अक्टूबर, 1997

का.प्र. 3001.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एक सौ आई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-10-97 को प्राप्त हुआ था।

[संख्या एल-22012/125/94-आई आर (सी-II)]

लौलो माऊ, डेस्क अधिकारी

MINISTRY OF LABOUR

New Delhi, the 31st October, 1997

S.O. 3001—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure, in the industrial dispute between the employers in relation to the management of F.C.I. and their workman, which was received by the Central Government on 29-10-1997.

[No. L-22012/125/94-IR (C-II)]

LOWLI MAO, Desk Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
AT CALCUTTA

Reference No. 31 of 1994

PARTIES :

Employers in relation to the management of Food Corporation of India, Calcutta

AND

Their workmen.

Mr. Justice A. K. Chakravarty, Presiding Officer.

APPEARANCE :

On behalf of Management—Mr. A. K. Basu, Advocate.

On behalf of Workmen—Mr. V. Kumar, State Joint Secretary (Welfare) of FCI Executive Staff Union.

STATE : West Bengal.

INDUSTRY : Food Corpn.

AWARD

By Order No. L-22012/125 94-IR (Coal II) dated 15-9-1994 the Central Government in exercise of its powers under Section 10(1)(d) and (2-A) of the Industrial Disputes Act, 1947 referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Food Corporation of India in not regularising the services of 12 workmen (list enclosed) of FCI, New Jalpaiguri/GFD Calcutta Section and depriving them to payment of wages as per the departmental regular employees and other benefits is justified? If not, what relief the said workmen are entitled to?"

List of the workmen

Sl. No.	Name of the workmen	Designation
1.	Sri Shankar Ghosh	Dusting Operator
2.	Sri Shankar Pratihari	Analysar
3.	Sri Golokendu Biswas	Picker
4.	Sri Haradhan Roy	Dusting Operator
5.	Sri Swapan Chakraborty	Picker
6.	Sri Jhantu Dey	Dusting Operator

2927 GI/97—5

	Dusting Operator
7. Sri Narayan Das	-Do-
8. Sri Narayan Sarkar	-Do-
9. Sri Mangal Chakraborty	-Do-
10. Sri Badal Das	-Do-
11. Sri Dulal Sarkar	-Do-
12. Sri Chotelal Paswan	-Do-

2. The workmen's case, in short, is that the 12 workmen under reference were employed by the FCI in 1983 at Government Food Depot (GFD in short), New Jalpaiguri in its quality control department and their services are being utilised since then as Dusting Operators, Picker and Analyser without any interruption, which are Class-IV and Class-III posts. The post of Analyser is the Class-III post and is equivalent of Technical Assistant Grade-I and the posts of Picker and Dusting Operator are Class-IV posts as per Food Corporation of India Staff Regulation, 1971. The workmen have alleged that since either appointment in 1983 they worked under the supervision and control of the management, which also paid them salary as regular employees of the management. The grievance of the workmen is that despite their being the regular employees of the management and performing the same duties as regular Dusting Operator, Picker and Analyser and that too, in the substantive posts, still they have been made to work as casual workers since 1983 not only with the intention to deprive them of their right of regularisation against vacant Class-III and Class-IV posts but also they are paid a meagre amount as wages compared to what is paid to the regular workers holding Class-III and Class-IV posts. They are also being deprived of other facilities like medical allowance, washing allowance, conveyance and lunch allowance etc. which are enjoyed by the regular workmen of the same category. They have further alleged that they are not getting the earned leave, sick leave, casual leave and other benefits. The workmen have also alleged that there are number of vacant posts and there is no difficulty for the management to absorb them as regular workmen against those vacancies. It is further alleged that the FCI authorities issued circular on 6-5-1987 directing that all those casual workmen who have completed 90 days service on or before 2-5-1987 shall be regularised according to their qualification against Class-III and Class-IV posts. In terms of the said circular though the services of hundreds of other casual workmen were regularised, still then, the management did not regularise the services of the 12 concerned workmen in spite of the representation made to the effect. The concerned workmen accordingly prayed for necessary order from this Tribunal for regularisation of their services in Class-III and Class-IV posts, as stated above, from the date of their appointment.

3. In the written statement filed by the FCI describing it as rejoinder, it denied the allegations of the workmen that they shall be entitled to regularisation of their services as prayed for by them. Its positive case is that in 1982 the Chairman of the Food Handling Labour Co-operative Society which was formed by their workers under Registration No. 56 of 1976, submitted tender for undertaking the contract for food handling works of C.S.D., Dabaram, Siliguri and the said Co-operative Society was awarded the contract for execution of the Depot's operational work for the period from 20-11-1982 to 9-11-1984 and thereafter the contract was extended from time to time. The said Society, till date, is contract for execution of operational work for Central Storage Depot (C.S.D.), Dabaram and Government Food Depot of Jalpaiguri. It is alleged that this Co-operative Society as contractor recommended the names of the concerned workmen for doing operational works and the said contractor used to pay their wages. The FCI has denied that it has got anything to do with the appointment of the 12 concerned workmen or any payment of wages directly to the workmen. The Corporation has also denied that the management indulged in unfair labour practice in not regularising the services of the concerned workmen. It is further alleged that the Co-operative Society originally obtained licence from the appropriate authority which had issued the licence under reference No. JFG/C/84/21 dated 20-6-1984 but subsequently the Co-operative Society had not renewed the licence though it was requested to do the same from time to time. It is further alleged that the Co-operative Society, as per established system and procedure, set the amount of money against the output given by the contract

workers against bills submitted by them alongwith the output slips and payment of wages to the workers engaged by the contractor are made by the said Co-operative Society in accordance with their output. An administrator is controlling the functions of the Co-operative Society now as the main body of the said Co-operative Society was dissolved due to dispute. The FCI alleged that their officers countersigned identity cards of the workmen which were issued by the Co-operative Society. Regarding the absorption of the contractor's workmen, it is alleged that it is to be decided by the Advisory Committee in terms of the provisions of the Contract Labour (Regulation and Abolition) Act, 1970. The result of the verification of the Advisory Committee as well as the Central Advisory Committee is pending before the Ministry of Labour, Government of India. It is further alleged that the Civil Rule No. 5489 (W) of 1991 in which the Union representing the workmen is a party, being pending in the High Court, the Reference is not maintainable. That Writ Petition was concerned with regularisation of 418 workmen including the present concerned workmen. The FCI has accordingly prayed for dismissal of the reference.

4. A rejoinder is filed by the workmen in respect of the allegation made by the management in its written statement, wherein it is alleged that the concerned workmen were neither engaged by any contractor nor they were engaged for doing any contractual work. In FCI contractor is appointed for handling of foodgrains bags i.e. for loading and unloading bags from trucks for public distribution system. The workmen reiterated that they having been appointed in Class III and Class-IV posts, the contractor has got nothing to do with their appointment. It is also alleged that the question of the workmen working as contractor's labourers does not and cannot arise as the contract system has been abolished by the Government of India from the Depot where they are working. The workmen also reiterated that there is employer-employee relationship between the workmen and the FCI. The concerned workmen alleged that they are members of the FCI Executive Staff Union and they have not been instructed by the said union to file any writ petition before the Hon'ble Calcutta High Court. It is further alleged that the concerned workmen were not even aware about the filing of the writ petition by the W.B.F.C.I. Workers' Union and that union was never given any power is also alleged that they are going to file a petition before to file writ petition for and on behalf of the workmen. If the Hon'ble High Court for deletion of their names from the writ petition filed by the fictitious union which has no existence in Food Corporation of India. The concerned workmen in its rejoinder has reiterated their claim for regularisation on the grounds that there is direct employer-employee relationship between the FCI and them and also for payment of wages directly by the FCI to the workmen. It is also alleged that the concerned workmen having been performing identical jobs of Class-III and Class-IV employees of the Management they are entitled to get equal wages and other benefits of the regular Class-III and Class-IV employees against which posts they are working and that they are also entitled to regularisation of their services as there are vacant posts and as per circular dated 6-5-1987. It is further alleged that due to unfair labour practice on the part of the management, they are being compelled to work as casual workers with a view to deprive them of their right of regularisation and payment of wages at par with the regular workmen. The workmen accordingly prayed for the relief as mentioned above.

5. From the evidence of the 12 concerned workmen who deposed in this case, it transpires that they were appointed by the District Manager of the FCI on 9-1-1983 and they were not given any appointment letter at the time of their appointment. It further transpires from their evidence that apart from Swapan Chakraborty, Golokendu Biswas and Shankar Pratihari who were appointed as Picker, Assistant Analyser and Analyser respectively, the rest of the workmen were appointed as Dusting Operators. Though it is not specifically stated in the written statement of the management about the date of the engagement of these workmen, still then, from the evidence of MW-1 Sanilhan Mondal, the District Manager of New Jalpaluri Godown of FCI it appears that in 1983 the Food Handling Labour Co-operative Society, Siliguri supplied the concerned workmen to the FCI for engaging them as ancillary labourers. That fact alongwith absence of any denial of the workmen's evidence

that they started working from 9-1-1983 in the New Jalpaluri Godwon, the said date of their joining in the FCI can be said to have been proved though admittedly no appointment letter was issued in their favour.

6. Regarding the duties performed by the concerned workmen, it will appear from the evidence of the workmen that apart from Swapan Chakraborty, Golokendu Biswas and Shankar Pratihari, who worked as Picker, Assistant Analyser and Analyser respectively, other workmen were entrusted with the work of Dusting Operators. An attempt was made during the cross-examination of WW-7 Mangal Chakraborty and WW-8 Narayan Das that some special qualification is required for appointment as Dusting Operator. The question of any special qualification for appointment was, however, found to have no basis as it will appear from the cross-examination of MW-1, the District Manager of FCI, that the minimum requirement for appointment as Class-IV staff, the post of Dusting Operator being within that grade, is literate only. The posts of Picker, Assistant Analyser and Analyser however being all promotional posts as per FCI Staff Regulation, 1971, the question of appointment of Swapan Chakraborty, Golokendu Biswas and Shankar Pratihari as Picker, Assistant Analyser and Analyser respectively in 1983 cannot be believed as there was no question of promotion in their cases. It is however submitted by Mr. Kumar, the representative of the workmen that in the aforesaid circumstances they having rendered services to the FCI, their services may also be regularised as Dusting Operators. MW-1 Mr. Mondal in his evidence stated that he does not know how they were allowed to work even though they were not qualified for such appointment. The explanation can be given by the quality control officers. No quality control officer was however examined on behalf of the management to render any explanation.

7. In support of his submission by the representative of the workmen that lack of educational qualification cannot be a bar for appointment, he drew my attention to the case of Bhagwati Prasad v. Delhi State Mineral Development Corporation, reported in AIR 1990 SC 371, where it was held as follows :

"..... The initial minimum educational qualification prescribed for the different posts is undoubtedly a factor to be reckoned with, but is so at the time of initial entry into the service. Once the appointment were made as daily rated workers and they were allowed to work for a considerable length of time, it would be hard and harsh to deny them the confirmation in the respective posts on the ground that they lack the prescribed educational qualification."

This decision shall not come of any help to these three workmen, namely, those of them who were working as Picker, Assistant Analyser and Analyser, for the simple reason that these posts are promotional posts and no employee can get a promotion unless he is appointed in any particular post.

8. The workmen thus having been found to be working since 9-1-1983 in Class-IV posts, the main question that now comes for consideration is whether these workmen shall be entitled to regularisation in their services. The management has totally denied to accept them even as casual workmen on the ground that they were merely contractor's labourers. The contractor in this case is alleged to be one Co-operative Society in the name of Food Handling Labour Co-operative Society. I have already stated that the workmen denied any concern with the Co-operative Society at any point of time. It is therefore necessary to examine the evidence on record to test the truthfulness of the contentions of the respective parties.

The case as mentioned in the written statement of the FCI is that the Co-operative Society was awarded the contract for execution of Depot's operational work for the period from 10-11-1982 to 9-11-1984 and thereafter the contract was extended from time to time. No such contract of 1982 was produced and no evidence was also produced before the Tribunal to prove that the alleged contract of 1982 was extended after 1984. The alleged contract between the FCI and the Co-operative Society in 1982, therefore,

has not been proved. The contract, as produced by the FCI, was marked as Ext. M-2 and it shows that the date of execution of the contract is 24-11-1984 and it shall remain valid for a period of 2 years for handling foodgrains and allied material etc. in and around C.S.D., Dabgram.

In the first place, this contract can have no application in the case of the concerned workmen because, as I have shown above, they were appointed on 9-1-1983 i.e. about 2 years prior to the execution of the contract between the FCI and Co-operative Society. Secondly, the contract relates to the handling of foodgrains and allied materials in and around C.S.D., Dabgram. It will appear from the evidence of MW-1, District Manager that Central Storage Depot, Dabgram, New Jalpaiguri and Government Food Depot, New Jalpaiguri are two different organisations and are managed and controlled by the two District Managers. He also admitted in his evidence that the 12 concerned workmen are attached to the Government Food Depot, New Jalpaiguri and accordingly the question of supplying of labourers by the Co-operative Society to the Government Food Depot, New Jalpaiguri in terms of the aforesaid contract of 1984 does not and cannot arise. Thirdly, the contract relates to handling of foodgrains and allied materials etc. Handling of foodgrains and allied materials etc. Obviously indicate the supply of labour only for the purpose of loading and unloading of foodgrains from the trucks.

I have already stated that the concerned workmen were not concerned in any in the matter of the handling of foodgrains and allied materials for the purpose of loading and unloading from trucks and in the said circumstances, this contract has nothing to do with their service to the FCI.

9. The FCI has tried to avoid the responsibility of the concerned workmen by relying on this contract and that is the sheet anchor of their case. The terms of the contract with the Co-operative Society being thus not in any way concerned with the service of the concerned workmen and that too having coming into existence after the workmen were working in the Govt. Food Depot, New Jalpaiguri of the FCI, the conclusion is inescapable that these workmen were appointed by the authorities of the said Depot on 9-1-1983. I have also shown that the period of contract never extended beyond 23-11-1986. Nothing having been produced to show that there was any renewal of contract and the workmen having been admittedly working after the expiry of the said date, the question of their rendering any service under the Co-operative Society after that date does not arise. In this connection, it is necessary to note that the contract labour system in this Depot was abolished by the Govt. of India as it will appear from the Gazette notification dated 1-11-1990. MW-1 Mr. Mondal in his evidence also admitted that the contract labour system was abolished in the godown in the year 1990. The contract labour system having been abolished in 1990 and the concerned workmen having been working even after the said date continuously from 1983 the contention of the FCI that they were still working under the contractor is absurd being without any basis.

10. It appears that the Depot authorities at New Jalpaiguri of the Food Corp. of India have least regard for performance of acts in accordance with law and it is prone to indulge in acts of victimisation by disregarding its own circular. That this Depot has the least regard for law will be at once apparent as it will appear from the evidence of MW-1 that during the pendency of the reference which was made on 15-9-1994, they claimed to have disallowed the entry of the workmen into their godown from 1993, thereby flouting the provisions of Section 33(1)(a) of the Industrial Disputes Act, 1947.

11. An objection was taken on behalf of the management about the maintainability of the reference on the ground that since W.B.F.C.I. Workmen's Union filed a Writ Petition being C.R. No. 5489/W of 1991, against the Food Corporation of India for the same relief of regularisation in service and the concerned workmen were members of

the said union and the matter being still pending for decision before the Hon'ble High Court at Calcutta, the present reference is liable to be dismissed.

The workmen in their evidence denied that they were members of the W.B.F.C.I. Workmen's Union and said that they are all along members of a different union, namely, FCI Executive Staff Union. They have also alleged that upon knowing that this writ petition was filed by the mentioned union involving them, they filed an application for deletion of their names and the Hon'ble High Court struck out their names. MW-1 has admitted in his evidence that the said application was allowed by the Hon'ble High Court and their names were struck out as prayed for by them and MW-1 has asserted that deletion of the names of the concerned workmen from the writ petition was precisely the reason for not allowing them any entry into the godown since 1993. The concerned workmen, however, denied that they were not allowed any entry into the godown as they are still working there as before.

Management's contention of disallowing the entry of the workmen into the godown since 1993 cannot be believed because such action on the part of the management with amount to clear contravention of Section 33(1)(a) of the Industrial Disputes Act, 1947. Be that as it may, after the deletion of their names in the writ petition, they cannot be said to be parties to the said writ petition and accordingly the contention of the management regarding maintainability of the reference cannot be sustained.

12. I have already shown that the management has failed totally to prove that the concerned workmen were sent by any Co-operative Society for rendering ancillary work. They were appointed in 1963 directly by the FCI as casual labourers. MW-1 Mr. Mondal in his evidence stated that the FCI themselves never engaged casual labourers, excepting those supplied by the Co-operative Society. I have already shown that the contractual relationship between the FCI and the Co-operative Society having began in 1964 for the first time, the question of forwarding the names of the concerned workmen to the FCI for engaging them as ancillary labourers does not arise. Further, no paper having been produced by the management to show any procedure for appointment of casual labour before 1964, the conclusion that invariably follows is that the concerned workmen have been appointed as casual labourers by the FCI. MW-1 Mr. Mondal having been appointed as Officer-in-charge to look after the job of the District Manager only in July 1996, he cannot have any knowledge about the procedure for recruitment of casual labourers as far back as in 1983 since when the concerned workmen are admittedly working in the godown in different capacities as Dustman, Operator, Picker, Assistant Analyser and Analyser.

13. Some direct evidence is also for the coming to show that the concerned workmen worked as casual worker directly under the control of FCI. From Ext. W-2 series, it will appear that work done certificate was issued by the Assistant Manager of the godown in favour of the some of the workmen. Workman also produced certain orders marked Ext. W-3 from which it will appear that some of the workmen were directed to perform duties on overtime basis. These workmen were stated to be casual workers in the said orders. These orders will also show the duties performed by these workmen. The workmen also produced absentee statement marked Ext. W-4 in a bunch from which it will appear that they have been described as casual workers. These bear the signature of Technical Assistant Grade-I, FCI, GFD, NJP. The workmen also produced payment sheet for the period 1-4-1991 to 16-4-1991 from which it will appear that these workmen were paid their wages directly by the Assistant Manager(D) FCI. Apart from the above documents showing unmistakably that the concerned workmen had been working as casual workers, it must be remembered that not a single piece of paper is produced by the management to show that the concerned workmen belonged to the Food Handling Labour Co-operative Society and their names were forwarded by the said Society.

14. My attention was drawn to circular dated 6-5-1987 (Ext. W-1) regarding regularisation of service of the casual workmen. The management's story that they never recruited any casual worker except through Co-operative Society, shall at once be falsified on reading of paragraph 2 of the said circular, which reads as follows :—

"2. In spite of the above instructions, the field offices continued to engage casual employees in a large number of cases and allowed them to continue for indefinite periods. All concerned were directed to stop the engagement of casual/daily rated/part-time employees/labour in the office/depot of the Corporation vide circular No. 28 of 1986 dated 2-5-1983. Despite these instructions, it has come to the notice that some of the offices have engaged casual employees even after 2-5-1986 in disregard to the aforesaid instructions, which has been viewed seriously."

In paragraphs 3 and 4 of the said circular it is stated that those proposals were placed before the Board of Directors in the meeting held on 24-2-1987 to relax the ban on recruitment for filling up of any entry level Category-III and IV posts for considering casual/daily rated employees who have completed 3 months period on 2-5-86 i.e. the date of imposing ban on engagement of casual/daily rated employees and who fulfilled other requirements of posts. While approving the relaxation of ban on recruitment and regularisation of casual employees, the Board of Directors desired that since the appointments have been made in violation of the standing instructions of the Corporation, disciplinary action against the concerned officers/officials should be initiated.

Paragraph 4 of the said circular reads as follows :—

"4. In view of the above decision of the Board of Directors, it has been decided to relax the ban on recruitment for filling in entry level category-III & IV posts by considering full-time casual/daily rated employees who have been performing duties of regular employees of the Corporation under FCI (Staff) Regulations, 1971 and who have completed three months period of service as on 2-5-1986 and possess the requisite qualifications etc. The casual employees who do not fulfill the conditions of appointment for any entry level category-III & IV posts shall be retrenched by paying retrenchment compensation as required under the I.D. Act, 1947. The age limit may, however, be relaxed by the competent authority as specified in Appendix-II of the FCI (Staff) Regulation to the extent of service rendered by such casual employees in the Corporation on daily rated/casual basis. This decision shall not apply for part-time casual employees and casual labour/workers and they shall not be regularised."

15. It was contended on behalf of the workmen with reference to this circular that the workmen having rendered much longer service than what is required under the circular and they having the requisite qualification and they having also performed the same type of work as performed by the regular employees of FCI, the management deliberately violated the directions of the circular only to deprive the concerned workmen of their rights of regularisation as per the circular. No reason was given by the management as to why the directions contained in this circular was not complied with in the case of the concerned workmen excepting that they were the employees of the Co-operative Society and their names having been forwarded by the said Society, they are not entitled to get the benefits of the circular. Nothing can be far from truth. Not a single paper has been produced, nor any credible evidence is forthcoming to prove that the concerned workmen had any concern with any Co-operative Society at any point of time in the matter of their appointment. The conclusion is inescapable that the FCI indulged in deliberate falsehood by making out such a case with a view to deprive the concerned workmen of their legitimate right of regularisation in terms of the circular.

16. As stated above, the contract labour system in the godown was admittedly abolished in 1990. MW-1 Mr. Mondal admitted in his evidence that in pursuance of the said abolition by the Government of India FCI had issued a circular directing the workers of the godown to constitute their own Co-operative Society, members of which would be treated as regular employees of the Corporation. Trying to

explain why such Co-operative Society was not formed pursuant to the circular, he stated without hesitation that they did not comply with the direction under the circular as the Co-operative Society contemplated in the circular already existed in the godown since 1984. Nothing again can be far from truth. It is nobody's case that any workmen's co-operative society was functioning in the Government Food Depot, New Jalpaiguri at any point of time. The above conduct of the officers of the godown clearly shows that they neither care to comply with the directions issued by the circular, nor are they afraid of taking false excuses with a view to trample upon the rights of the workmen.

17. To bolster up their case of contract with the co-operative society, the Food Corporation of India have produced certain vouchers/bills issued by the Administrator, Food Corporation of India Food Handling Co-operative Society Limited. No importance can be given to these vouchers/bills as they relate to the period after the reference was made in 1994. It is to be remembered that no fresh contract with the Labour Co-operative Society could be made in 1995 after the abolition of the contract labour system in the godown.

18. It was submitted on behalf of the workman that since the concerned workmen were performing the duties of regular workmen that they are entitled to equal pay as received by the regular workmen working in Class-III and IV posts under Article 39 of the Constitution of India. I have already examined the evidence on record, both oral and documentary to show that they had been working as Dusting Operators, Picker, Analyser and Assistant Analyser in the Depot in question. A reference may be made in this connection to the case of Surinder Singh v. Engineer in Chief C.P.W.D., reported in AIR 1986 SC 584 where their Lordships referred to the case of D. S. Nakara v. Union of India, AIR 1983 SC 130 where it was held as follows :

"...The Central Government, the State Governments and likewise, all public sector undertakings are expected to function like model and enlightened employers and arguments such as those what were advanced before us that the principle of equal pay for equal work is an abstract doctrine which cannot be enforced in a court of law should ill-come from the months of the State and State Undertakings.."

19. I have already stated that apart from the three workers who are working as Picker Assistant Analyser and Analyser which were promotional posts and to which they are not entitled at the time of their initial appointment, their services, it was rightly contended by the representative of the workmen, should be considered as Dusting Operators alongwith 9 other workmen. The Dusting Operator being a regular Class-IV post and the workman having rendered service as workmen in Class-IV post they should be allowed to get the said benefit as enjoyed by the regular employees in the said category of the establishment on the principle of "equal pay for equal work".

20. Learned Advocate for the management referred to the case of State of Orissa v. Radheshyam Meher, reported in (1995) Supreme Court cases 652. This decision has no application to the facts of the present case as the question in that case was whether the policy decision taken by the State Government to open 24 hours medical stores in the campus of the hospital was justified or not. My attention was also drawn to the case of State of Rajasthan v. Kunji Ramun reported in (1997) 2 Supreme Court cases 570 where it was held that the work-charged employees and the employees of the regular establishment of P.W.D. are the separate and distinct classes and accordingly there may be difference in benefits granted to these two separate classes of employees.

21. In this connection, a reference may be made to the case of State of Haryana v. Piyaara Singh, reported in (1992) 4 Supreme Court cases 118. The Hon'ble Supreme Court in this case while analysing the function of the court in matters concerning the employer-employee relationship held that "The main concern of the court in such matters is to enquire rule of law and to see that the executive acts fairly and gives a fair deal to its employees consistent to the requirements of Articles 14 and 16. It also means that the State should not exploit its employee nor should it seek to take advantage of the helplessness or misery of either the unemp-

loyed of the employees, as the case may be. As is often said, State must be the model employer. It is for this reason, it is held that equal pay must be given for equal work which is no doubt one of the directive principle of the Constitution. It is for this very reason it is held that the person should not be kept in temporary or adhoc status for long. Where temporary or adhoc continue for long, the Court presumes there is need and warrant for a regular post and accordingly directs regularisation. While all the situation the Court may act to ensure fairness cannot be detailed here, it is sufficient to indicate that the guiding principles are the ones stated above."

22. So, upon consideration of all the relevant facts and circumstances as well as the position of law in this matter, I am of the opinion that the continuous service of the concerned workmen in Class-IV posts since 1983 and forcing them to remain as casual labour and refusal to regularise their services in accordance with the circular dated 6-5-1987 is unjustified, unwarranted and illegal specially because the copy of the Staff Position as on 31-3-1995 (vide Ext. W-5) shows that out of total sanctioned post of 70 as far back as on 15/16-1-1976, 42 posts have been filled up by regular employees and still there are 28 vacancies which are to be filled up. Since the circular dated 6-5-1987 granted the concerned workmen, who had been working as casual labour, the right to be absorbed in the post of Dusting Operators, the Government Food Depot at New Jalpaiguri of Food Corporation of India should regularise the services of the workmen as Dusting Operators from 6-5-1987. The concerned workman also having performed the same nature of duties as regular workmen of the establishment since their appointment on 9-1-1983, they will be entitled to get wages including all other benefits available to the regular employees of the establishment working in the said post from that date, i.e. from 9-1-1983 on the basis of the doctrine "Equal pay for equal work" under the provisions of Article 39(d) of the Constitution of India.

This is my Award.

A. K. CHAKRAVARTY, Presiding Officer

Dated, Calcutta,

The 6th October, 1997.

नई दिल्ली, 4 नवम्बर, 1997

का० प्रा० 3002-औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ सी आई के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-10-97 को प्राप्त हुआ था।

[संख्या एल-22012/172/एफ/89-आई आर (सी-II)]

लोली माऊ, डेस्क अधिकारी

New Delhi, the 4th November, 1997

S.O. 3002.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workman, which was received by the Central Government on the 28-10-1997.

[No. L-22012/172/F/89-IR(C-II)]

LOWLI MAO, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA : PRESID-
ING OFFICER : CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL : NEW DELHI

I.D. No. 140/89

In the matter of dispute :

BETWEEN

Shri Ram Her,
S/o Shri Jageram,
Village & P.O. Sampla,
District Rohtak,
(Haryana).

Versus

Zonal Manager,
Food Corporation of India,
17, Prabhat Kiran Building,
Rajendra Place,
New Delhi-110060.

APPEARANCES :

Shri R. P. Kasana for the workman.

Shri A. K. Raina for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-22012(172)/F/89-IR. (Coal-II) dated 5-12-89 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the Management of Food Corporation of India in stopping the workman Shri Ram Her from work w.e.f. 14-6-88 is justified ? If not, to what relief the workman concerned is entitled ?"

2. The parties had sought time of settlement of the dispute and filed settlement Ex. M-1 on 6-6-97. It was stated that the No Dispute award may be passed in this case in terms of Settlement Ex. M-1. In view of this situation since the parties have entered into a settlement Ex. M-1 award is passed in terms of Ex. M-1 which shall form a part of the award and finding on both the parties. No dispute remains to be settled in view of this settlement. Parties are left to bear their own costs.

2nd July, 1997.

GANPATI SHARMA, Presiding Officer

BEFORE THE PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL, NEW DELHI

In the matter of I.D. No. 140/89
D.O.H. 6-6-1997
Shri Ram Her, H/L Applicant Workman.

Versus

Food Corporation of India, Respondent/
through its District Manager, Management.
Mayapur, New Delhi.

Hon'ble Sir,

During the course of proceedings on the preceding date fixed for 12-5-1997, it was desired by the Hon'ble Court to know as to what superannuation/retirement benefits are to be conferred upon the Applicant Workman if he opts for retirement. Accordingly the details are being furnished here under :—

1. Gratuity as admissible as on date.
2. C.P.F. dues as standing at the credit of the workman including interest as on date under existing rules as applicable in his case.
3. Encashment of P.L., if any, subject to the balance/availability at the credit of the workman as on date.
4. Amount as standing at the credit of the workman towards family pension deductions under existing rules as applicable in his case.
5. Voluntary retirement benefits, if any, subject to the admissibility under the existing scheme as applicable in his case. (already on the record of this Hon'ble Court Including Compassionate Ground appointment etc. of ward, if rules permit.

Any other benefits which are may be admissible before the option for retirement of the workman. However, the wages not earned can not be paid, whereas fringe benefits etc. as admissible are already being paid to him as admitted in black and white by the workman himself (already on the record of the Hon'ble Court itself).

In view of the submissions as aforementioned, it is earnestly solicited to kindly close the case by dismissing the same in favour of the Management/Respondent or appropriate orders may kindly be passed on merit keeping in view the judgements of various Apex Courts i.e. Hon'ble High Court of

Delhi including Hon'ble Supreme Court of India on the same issue, already on the records of this Hon'ble Court.

It is most humbly prayed accordingly.

Offer accepted :

Sd/- ellegible

R. P. KOSANA,
Advocate,
Ch. 268 Patiala House Court.

For and on behalf of :
Management Respondent.

Sd/-
District Manager,
Food Corporation of India,
Distt. Office, Mayapuri.

नई दिल्ली, 4 नवम्बर, 1997

कां० 3003-औद्योगिक विवाद अधिनियम, 1947
(1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ सी आई के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचपद को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-10-97 को प्राप्त हुआ था ।

[संख्या एल-22012/526/एफ/94-आई आर (सी-II)]
लौलो माऊ, डेस्क अधिकारी

New Delhi, the 4th November, 1997

S.O. 3003.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, Kanpur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of F.C.I. and their workman, which was received by the Central Government on the 28-10-1997.

[No. L-22012/526/F/94-IR(C-II)]
LOWLI MAO, Desk Officer
ANNEXURE

BEFORE SRI B. K. SRIVASTAVA, PRESIDING
OFFICER, CENTRAL GOVERNMENT INDUS-
TRIAL TRIBUNAL-CUM-LABOUR COURT,
PANDU NAGAR, KANPUR

Industrial Dispute No. 51 of 1995

In the matter of dispute :

BETWEEN

Sachiv,
Bhartiya Khadya Nigam Karamchari Sangh,
5-6 Habibullah Estate,
Hazaratganj,
Lucknow.

AND

Senior Regional Manager,
Bhartiya Khadya Nigam,
5/6 Habibullah Estate,
Hazaratganj,
Lucknow.

AWARD

1. Central Government, Ministry of Labour, vide its notification No. L-22012/526/F/94-IR (C-II) dated 16-5-95, has referred the following dispute for adjudication to this Tribunal—

Whether the action of the Senior Regional Manager, Food Corporation of India, Lucknow to revert Sri Ram Saran Agarwal from Tech. Gr. I to Tech. Asstt. Gr. II during probation period for alleged involvement in vigilance case is legal and justified? If not, what relief is he entitled to?

2. Following facts are not in dispute. The concerned workman was engaged/appointed as T.A. III in the year 1972 by the opp. party Food Corporation of India. He was promoted as T.A. II in the year 1977. Thereafter he was promoted as T.A. I on 31-12-84. He was further directed to remain on probation for a period of one year. It appears that C.B.I. registered case No. 6 of 85 against the concerned workman for taking bribe of Rs. 40. Because of this criminal case the concerned workman was placed under suspension and was also reverted to the post of T.A. II. It is also not disputed that vide judgment and order dt. 14-1-93 the concerned workman has been acquitted in the above mentioned criminal case.

3. The concerned workman has alleged that because of his acquittal he is entitled for the post of T.A. and as his reversion order has been rendered illegal.

4. The opposite party on the other hand has maintained that the work of the concerned workman was not good during the period of probation and further that a criminal case was pending he was reverted.

5. In the rejoinder nothing new has been alleged.

6. In view of admitted case of the parties that the case launched by C.B.I. has ended in acquittal by judgment and order dt. 14-1-93, this ground cannot be said to be valid for reversion of the concerned workman from the post of T.A. I to T.A. II. The authorised representative of the management has alleged that the work and conduct of the concerned workman was bad during the probation period, hence the management had every right to terminate his probation and revert him to the post of T.A. II. There is no dispute that the concerned workman was kept on probation for a

period of one year. There is no evidence worth the name to show that his probation period was extended thereafter. At least the copy of such order has not been filed on record. In its absence, I come to the conclusion that period of probation of the concerned workman was not extended, hence he will be deemed to have been confirmed after expiry of one year from 31-12-84. Thereafter, he could not have been reverted without affording any opportunity. No papers regarding unsatisfactory report regarding the working of the concerned workman during the period of probation have been filed. In its absence, I am not inclined to believe that the work and conduct of the concerned workman was bad during the course of probation.

7. Thus from every point of view the reversion of the concerned workman is bad and consequently he is entitled for the post of T.A. I from the date of reversion and will also be entitled for difference of wages.

B. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 4 नवम्बर, 1997

कां.प्र. 3004—औद्योगिक विवाद अधिनियम, 1947 (1947 का 11) की धारा 17 के अनुसरण में केन्द्रीय सरकार एक सार्वजनिक प्रकाशन के संबंध में निदेशों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद केन्द्रों सरकार में औद्योगिक प्रशासन, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-10-97 को प्राप्त हुआ था।

[संख्या एल-22012/48/एल/90-आई आर (सी-II)]

लोली माऊ, डेस्क अधिकारी

New Delhi, the 4th November, 1997

S.O. 3004.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workman, which was received by the Central Government on 28-10-1997.

[No. L-22012/48/F/90-IR (C-II)]

LOWLI MAO, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA,
PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL,
NEW DELHI

I. D. NO. 73/90.

In the matter of dispute ;

BETWEEN

Shri Sunder Lal,
C/o. Bhartiya Khadya Nigam,
Mazdoor Sangh,
Y-2059, Mango Puri,
New Delhi-110083.

Versus

The District Manager,
Food Corporation of India,
District Office,
Mayapuri, New Delhi.

APPEARANCES :

Shri R. P. Kasnana for the workman.
Shri A. K. Raina for the Management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-22012(48) F/90-1R (C. II), dated 10-6-1990 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Food Corporation of India, New Delhi in stopping the workman Shri Sunder Lal w.e.f. 2-2-1988 is justified? If not, to what relief the workman is entitled to?"

2. The parties had sought time of settlement of the dispute and filed settlement Ex. M-1 on 6-6-97. It was stated that the No Dispute award may be passed in this case in terms of Settlement Ex. M-1. In view of this situation since the parties have entered into a settlement Ex. M-1 award is passed in terms of Ex. M-1 which shall form a part of the award and finding on both the parties. No dispute remained to be settled in view of this settlement. Parties are felt to bear their own costs.

GANPATI SHARMA, Presiding Officer.

BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL,
NEW DELHI.

In the matter of....I.D. No. 73/90
D.O.H. 6-6-1997.

Shri Sunder Lal, H/L Applicant Workman

Versus

Food Corporation of India,
through its District Manager,
Mayapuri, New Delhi

.. Respondent/Management.

Hon'ble Sir,

During the course of proceedings on the preceding date fixed for 12-5-1997, it was desired by the Hon'ble Court to know as to what superannuation/retirement benefits are to be conferred upon the Applicant Workman if he opts for retirement. Accordingly the details are being furnished hereunder :—

1. Gratuity as admissible as on date.
2. C.P.F. dues as standing at the credit of the workman including interest as on date under existing rules as applicable in his case.
3. Encashment of P.L., if any, subject to the balance/availability at the credit of the workman as on date.
4. Amount as standing at the credit of the workman towards family pension deductions under existing rules as applicable in his case.
5. Voluntary retirement benefits, if any, subject to the admissibility under the existing scheme as applicable in his case. (already on the record of this Hon'ble Court. Including compassionate ground appointment etc. of the ward if rules permit.

Any other benefits which are/may be admissible before the option for retirement of the workman. However, the wages not earned can not be paid, whereas fringe benefits etc as admissible are already being paid to him as admitted in black and white by the workman himself (already on the record of the Hon'ble Court itself).

In view of the submissions as aforementioned, it is earnestly solicited to kindly close the case by dismissing the same in favour of the Management/Respondent or appropriate orders may kindly be passed on merit keeping in view the judgments of various Apex Courts i.e. Hon'ble High Court of Delhi including Hon'ble Supreme Court of India on the same issue (already on the records of this Hon'ble Court).

It is most humbly prayed accordingly.

Offer accepted

Sd./- Illegible.

R. P. KOSANA, Advocate.

For and on behalf of
Management Respondent.
Sd./-

District Manager,
Food Corporation of India,
District Office, Mayapuri.

लौली माऊ, डेस्क अधिकारी

नई दिल्ली, 4 नवम्बर, 1997

का० अा० 3005—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एक सी आई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती हैं, जो केन्द्रीय सरकार को 28-10-97 को प्राप्त हुआ था।

[संख्या एल-22012/119/एफ/89-आई आर (सी-II)]

लौली माऊ, डेस्क अधिकारी

New Delhi, the 4th November, 1997

S.O.3005.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workman, which was received by the Central Government on the 28-10-1997.

[No. L-22012/119/F/89-IR (C-II)]
LOWLI MAO, Desk Officer.

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVERNMENT, INDUSTRIAL TRIBUNAL, NEW DELHI.

I. D. No. 114/89.

In the matter of dispute.

BETWEEN :

Shri Balbir Singh, Handling Labour son of Shri Shanker Lal, r/o. village Bajghera, Distt. Gurgaon (Haryana).

Versus

Zonal Manager, Food Corporation of India, Rajendra Place, 17, Prabhat Kisan Building, New Delhi.

APPEARANCES :

Shri R. P. Kasana for the workman.

Shri A. K. Raina for the management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-22012(119)/F/89-IR. (Coal-II), dated 10/89 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Food Corporation of India, New Delhi in stopping the workman Shri Balbir Singh from work w.e.f. 14-6-1988 is justified? If not to what relief the workman concerned is entitled?"

2. The parties had sought time of settlement of the dispute and filed settlement Ex. M-1 on 6-6-97. It was stated that the No Dispute award may be passed in this case in terms of Settlement Ex. M-1. In view of this situation since the parties have entered into a settlement Ex. M-1 award is passed in terms of Ex. M-1 which shall form a part of the award and finding on both the parties. No dispute remains to be settled in view of this settlement. Parties are left to bear their own costs.

Dated : 2nd July, 1997.

GANPATI SHARMA, Presiding Officer.

227 GI/97-6

ANNEXURE

BEFORE THE PRESIDING OFFICER,
CENTRAL GOVERNMENT INDUSTRIAL
TRIBUNAL NEW DELHI.

In the matter of I. D. No. 114/89
D.O.H.6-6-1997.

Shri Balbir Singh, H/L Applicant Workman

Versus

Food Corporation of India,
through its District Manager,
Mayapuri, New Delhi.

...Respondent/Management.

Hon'ble Sir,

During the course of proceedings on the preceding date fixed for 12-5-1997, it was desired by the Hon'ble Court to know as to what superannuation/retirement benefits are to be conferred upon the Applicant Workman if he opts for retirement. Accordingly the details are being furnished hereunder:—

1. Gratuity as admissible as on date.
2. C.P.F. dues as standing at the credit of the workman including interest as on date under existing rules as applicable in his case.
3. Encashment of P.L., if any, subject to the balance/availability at the credit of the workman as on date.
4. Amount as standing at the credit of the workman towards family pension deductions under existing rules as applicable in his case.
5. Voluntary retirement benefits, if any, subject to the admissibility under the existing scheme as applicable in his case. (already on the record of this Hon'ble Court, including compassionate ground appointment etc. of the workman if rules permit.

Any other benefits which are/may be admissible before the option for retirement of the workman. However, the wages not earned can not be paid, whereas fringe benefits etc. as admissible are already being paid to him as submitted in black and white by the workman himself (already on the record of the Hon'ble Court itself).

In view of the submissions as aforementioned, it is earnestly solicited to kindly close the case by dismissing the same in favour of the Management/Respondent or appropriate orders may kindly be passed on merit keeping in view the judgements of various Apex Courts i.e. Hon'ble High Court of Delhi including Hon'ble Supreme Court of India on

the same issue (already on the records of this Hon'ble Court).

It is most humbly prayed accordingly.

Sd./-

R. P. Kosanga, Advocate.

Sd./-

For and on behalf of
R. P. Kosanga, Advocate. Management Respondent.
Ch. 268 Patiala House Court. Sd./-

District Manager,
Food Corporation of India,
District Office Mayapuri,
New Delhi.

नई दिल्ली, 4 नवम्बर, 1997

कां०आ० 3006:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ०सी०आई० के प्रबन्धन के संबंध निरोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-10-97 को प्राप्त हुआ था।

[संख्या एल-22012/120/एफ/89-आई०आर० (सी०-II)

लोली माउ, डेस्क अधिकारी

New Delhi, the 4th November, 1997

S.O. 3006.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workman, which was received by the Central Government on the 28-10-97.

[No. L-22012/120/F/89-IR(C-II)]

LOWLI MAO, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA, PRESIDING OFFICER, CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NEW DELHI

I.D. No. 101/89

In the matter of dispute between:

Shri Devi Singh Shri Kesar Singh,
House No. 1001, Block S,
Mangol Puri, Delhi.

Versus

Zonal Manager,
Food Corporation of India,
17, Prabhat Kiran Building,
Rajendra Place, New Delhi.

APPEARANCES:

Shri R. P. Kasana—for the workman.

Shri A. K. Raina—for the Management,

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-22012(120)/F/39-I.R.(Coal-I) dated 10/89 has referred the following industrial dispute to this Tribunal for adjudication:

"Whether the action of the Management of Food Corporation of India in stopping the workman Shri Devi Singh from work w.e.f. 14-6-88 is justified? If not, to what relief the workman concerned is entitled?"

2. The parties had sought time of settlement of the dispute and filed Settlement Ex. M-1 on 6-6-97. It was stated that the No Dispute award may be passed in this case in terms of settlement Ex. M-1. In view of this situation since the parties have entered into a settlement Ex. M-1 award is passed in terms of Ex. M-1 which shall form a part of the award and binding on both the parties. No dispute remains to be settled in view of this settlement. Parties are left to bear their own costs.
2nd July 1997.

GANPATI SHARMA, Presiding Officer

ANNEXURE

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

In the matter of I.D. No. 101/89

D.O.H. 6-6-1997

Shri Devi Singh, H/L Applicant Workman

Versus

Food Corporation of India, Respondent
Management,
through its District Manager,
Mayapuri, New Delhi.

Hon'ble Sir,

During the course of proceedings on the preceding date fixed for 12-5-1997, it was desired by the Hon'ble Court to know as to what superannuation/retirement benefits are to be conferred upon the Applicant Workman if he opts for retirement. Accordingly the details are being furnished hereunder :—

1. Gratuity as admissible as on date.
2. C.P.F. dues as standing at the credit of the workman including interest as on date under existing rules as applicable in his case.
3. Encashment of P.L., if any, subject to the balance/availability at the credit of the workman as on date.
4. Amount as standing at the credit of the workman towards family pension deductions under existing rules as applicable in his case.
5. Voluntary retirement benefits, if any, subject to be admissibility under the existing scheme as applicable in his case, (already on the record of this Hon'ble Court, including compassionate ground appointment etc. of the workman, if rules permit).

Any other benefits which are/may be admissible before the option for retirement of the workman. However, the wages not earned cannot be paid, whereas fringe benefits etc. as admissible are already being paid to him as admitted in block and white by the workman himself (already on the record of the Hon'ble Court itself).

In view of the submission as aforementioned, it is earnestly solicited to kindly close the case by dismissing the same in favour of the Management/Respondent or appropriate orders may kindly be passed on merit keeping in view the judgements of various Apex Courts i.e. Hon'ble High Court of Delhi including Hon'ble Supreme Court of India on the same issue (already on the records of this Hon'ble Court).

It is most humbly prayed accordingly.
Offer accepted.

R. P. KOSDMA
Ch-268 Patiala House Court.

For and on behalf of
Management Respondent.

District Manager,
Food Corporation of India,
Distt. Office Mayapuri,

नई दिल्ली, 4 नवम्बर, 1997

का. घा. 3007 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफ.सी.आई. के प्रबन्ध तंत्र के संबंध निरो-जकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-10-97 को प्राप्त हुआ था।

[संख्या एल-22012/122/एफ/89-आईएमए (सी-II)]
लंसी माउ, डेस्क अधिकारी

New Delhi, the 4th November, 1997

S.O. 3007.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute employers in relation to the management of Food Corporation of India and their workman, which was received by the Central Government on the 28-10-97.

[No. L-22012/122/F/90-IR(C-II)]
LOWLI MAO, Desk Officer

ANNEXURE

BEFORE THE GANPATI SHARMA, PRESIDING
OFFICER, CENTRAL GOVT. INDUSTRIAL
TRIBUNAL, NEW DELHI

I.D. No. 100/89

In the matter of dispute between :
Shri Abdul Shami,
r/o RZ-56-C, Kamal Park, Palam Colony,
New Delhi-110045.

Versus

Zonal Manager,
Food Corporation of India,
17, Prabhat Kiran Building,
Rajendra Place,
New Delhi.

APPEARANCES:

Shri R. P. Kasna—for the workman.

Shri A. K. Raina—for the Management.

AWARD

The Central Government in the Ministry of Labour vide its order No. L-22012(122)F/89-I.R. (Coal-II) dated 12-10-89 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Food Corporation of India in stopping the workman Shri Abdul Shami from work w.e.f. 14-6-88 is justified? If not, to what relief the workman concerned is entitled?"

2. The parties has sought time of settlement of the dispute and filed settlement Ex. M-1 on 6-6-97. It was stated that the No Dispute award may be passed in this case in terms of settlement Ext. M-1. In view of this situation since the parties have entered into a settlement Ex. M-1 award is passed in terms of Ex. M-1 which shall form a part of the award and binding on both the parties. No dispute remains to be settled in view of this settlement. Parties are left to bear their own costs.

2nd July, 1997.

GANPATI SHARMA, Presiding Officer

BEFORE THE PRESIDING OFFICER, CENTRAL
GOVERNMENT INDUSTRIAL TRIBUNAL
NEW DELHI

In the matter of. I.D. No. 100/89
D.O.H.. 6-6-1997

Sh. Abdul Shami, H/L. Applicant Workman

Versus

Food Corporation of India. Respondent/Man-
agement.

through its District Manager,

Mayapuri, New Delhi.

Hon'ble Sir,

During the course of proceedings on the preceding date fixed for 12-5-1997, it was desired by the Hon'ble Court to know as to what superannuation/retirement benefits are to be conferred upon the Applicant Workman if he opts for retirement. Accordingly the details are being furnished hereunder:—

1. Gratuity as admissible as on date.
2. C.P.F. dues as standing at the credit of the workman including interest as on date under existing rules as applicable in his case.

3. Encashment of P.L., if any, subject to the balance/availability at the credit of the workman as on date.
4. Amount as standing at the credit of the workman towards family pension deduction under existing rules as applicable in his case.
5. Voluntary retirement benefits, if any, subject to the admissibility under the existing scheme as applicable in his case. (already on the record of this Hon'ble Court, including Compassionate Ground appointment etc. of the trade of rules permit.

Any other benefits which may be admissible before the option for retirement of the workman. However the wages not earned cannot be paid, whereas fringe benefits etc. as admissible are already being paid to him as admitted in black and white by the workman himself (already on the record of the Hon'ble Court itself).

In view of the submissions as aforementioned, it is earnestly solicited to kindly close the case by dismissing the same in favour of the Management/Respondent or appropriate orders may kindly be passed on merit keeping in view of the judgements of various Apex Courts i.e. Hon'ble High Court of Delhi including Hon'ble Supreme Court of India on the same issue (already on the records of this Hon'ble Court).

It is most humbly prayed accordingly.
Offer accepted

R. P. KOSDMA

Ch. 268 Patiala House Court.

For and on behalf of
Management Respondent.
District Manager,
Food Corporation of India,
Distt. Office Mayapuri.

नई दिल्ली, 4 नवम्बर, 1997

का. आ. 3008 :—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एक सी आई के प्रबन्ध तंत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-10-97 को प्राप्त हुआ था।

[संख्या एल-22012/123/ एफ/ 89-आई आर (सी-II)]

लोली माऊ डेस्क अधिकारी

New Delhi, the 4th November, 1997

S.O. 3008.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workman, which was received by the Central Government on 28-10-1997.

[No. L-22012/137/F/89-IR (C-II)]
LOWLI MAO, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NEW DELHI

I D. No. 99/89

In the matter of dispute :

BETWEEN

Shri Jagan Nath
r/o RZ D-12, Nanda Block,
Mahavir Enclave,
Palam Road,
New Delhi.

Versus

Zonal Manager,
Food Corporation of India,
17, Prabhat Kiran Building,
Rajindera Place,
New Delhi.

APPEARANCES :

Shri R. P. Kasana—for the workman.

Shri A. K. Raina—for the management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-22012/123/F/89-IR (Coal-II) dated 12-10-89 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the Management of Food Corporation of India in stopping the workman Shri Jagan Nath from work w.e.f. 14-6-88 is justified ? If not, to what relief the workman concerned is entitled ?"

2. The parties had sought time of settlement of the dispute and filed settlement Ex. M-1 on 6-6-97. It was stated that the No Dispute award may be passed in this case in terms of settlement Ex. M-1. In view of this situation since the parties have entered into a settlement Ex. M-1 award is passed in terms of Ex. M-1 which shall form part of the award and finding on both the parties. No dispute remains to be settled in view of this settlement. Parties are left to bear their own costs.

Dated : 2nd July, 1997.

GANPATI SHARMA, Presiding Officer

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 99/89

In the matter of
D.O.H.

6-6-1997

Shri Jagan Nath, H/L

Applicant Workman

Versus

Food Corporation of India, Respondent/Management
through its District Manager,
Mayapuri, New Delhi.

Hon'ble Sir,

During the course of proceedings on the preceding date fixed for 12-5-1997, it was desired by the Hon'ble Court to know as to what superannuation/retirement benefits are to be conferred upon the Applicant Workman if he opts for retirement. Accordingly the details are being furnished hereunder :—

1. Gratuity as admissible as on date.
2. C.P.F. dues as standing at the credit of the workman including interest as on date under existing rules as applicable in his case.

3. Encashment of P.L., if any, subject to the balance/availability at the credit of the workman as on date.
4. Amount as standing at the credit of the workman towards family pension deductions under existing rules as applicable in his case.
5. Voluntary retirement benefits, if any, subject to the admissibility under the existing scheme as applicable in his case. (already on the record of this Hon'ble Court) including compassionate ground appointment etc. of the ward, if rules permit.

Any other benefits which are/may be admissible before the option for retirement of the workman. However, the wages not earned can not be paid, whereas fringe benefits etc. as admissible are already being paid to him as admitted in black and white by the workman himself (already on the record of the Hon'ble Court itself).

In view of the submissions as aforementioned, it is earnestly solicited to kindly close the case by dismissing the same in favour of the Management/Respondent or appropriate orders may kindly be passed on merit keeping in view the judgements of various Apex Courts i.e. Hon'ble High Court of Delhi including Hon'ble Supreme Court of India on the same issue (already on the records of this Hon'ble Court).

It is most humbly prayed accordingly.

Offer accepted

R. P. Kasana Advocate

Ch. 268 Patiala House Court.

For and on behalf of
Management Respondent

Sd/-
District Manager,
Food Corporation of India,
Distt. Office, Mayapuri.

नई दिल्ली, 4 नवम्बर, 1997

का. आ. 3009.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) बा दारा 17 के अनुसरण में, केन्द्रीय सरकार एप.सी.आई. के प्रवक्तृ तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 28-10-97 का प्राप्त द्युग्रा था।

[संख्या एल-22012/124/एफ. 89 आई.आर. (सी-—II)]
लौली माउ, ईस्क अधिकारी

New Delhi, the 4th November, 1997

S.O. 3009.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workman, which was received by the Central Government on 28-10-1997.

[No. L-22012/124/F/89-IR (C-II)]

LOWLI MAO, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA PRESIDING OFFICER CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NEW DELHI

I. D. No. 98/39

In the matter of dispute :

BETWEEN

Shri Vijay Singh
House No F-13-A, Palam Colony,
New Delhi.

Versus

Zonal Manager,
Food Corporation of India,
17, Prabhat Kiran Building,
Rajindera Place,
New Delhi.

APPEARANCES :

Shri R. P. Kasana—for the workman.

Shri A. K. Raina—for the management.

AWARD

The Central Government in the Ministry of Labour vide its Order No. L-22012/124/F/89-I.R. (Coal-II) dated 12-10-89 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Food Corporation of India in stopping the workman Shri Vijay Singh from work w.c.f. 14-6-88, is justified? If not, to what relief the workman concerned is entitled?"

2. The parties had sought time of settlement of the dispute and filed settlement Ex. M-1 on 6-6-97. It was stated that the No Dispute award may be passed in this case in terms of settlement Ex. M-1. In view of this situation since the parties have entered into a settlement Ex. M-1 award is passed in terms of Ex. M-1 which shall form part of the award and finding on both the parties. No dispute remains to be settled in view of this settlement. Parties are left to bear their own costs.

Dated : 2nd July, 1997.

GANPATI SHARMA, Presiding Officer

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 98/89

In the matter of

D.O.H.

Shri Vijay Singh, M/L

6-6-1997

Applicant Workman

Versus

Food Corporation of India, Respondent/Management
through its District Manager,
Mayapuri, New Delhi.

Hon'ble Sir,

During the course of proceedings on the preceding date fixed for 12-5-1997, it was desired by the Hon'ble Court to know as to what superannuation/retirement benefits are to be conferred upon the Applicant Workman if he opts for retirement. Accordingly the details are being furnished hereunder :—

1. Gratuity as admissible as on date.
2. C.P.F. dues as standing at the credit of the workman including interest as on date under existing rules as applicable in his case.
3. Encashment of P.L., if any, subject to the balance/availability at the credit of the workman as on date.
4. Amount as standing at the credit of the workman towards family pension deductions under existing rules as applicable in his case.
5. Voluntary retirement benefits, if any, subject to the admissibility under the existing scheme as applicable in his case. (already on the record of this Hon'ble Court, including compassionate ground appointment etc. of the word, if rules permit.

Any other benefits which are/may be admissible before the option for retirement of the workman. However, the wages not earned can not be paid, whereas fringe benefits etc. as admissible are already being paid to him as admitted in black and white by the workman himself already on the record of the Hon'ble Court itself).

In view of the submissions as aforementioned, it is earnestly solicited to kindly close the case by dismissing the same in favour of the Management/Respondent or appropriate orders may kindly be passed on merit keeping in view the judgements of various Apex Courts i.e. Hon'ble High Court of Delhi including Hon'ble Supreme Court of India on the same issue (already on the records of this Hon'ble Court).

It is most humbly prayed accordingly.

Offer accepted

R. P. Kasana, Advocate

Ch. 268, Patiala House Court.

For and on behalf of
Management Respondent
Sd/-

District Manager,
Food Corporation of India,
Distt. Office Mayapuri.

नई दिल्ली, 4 नवम्बर, 1997

का. आ. 3010.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफ सी आई के प्रबन्ध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नई दिल्ली के पंचपट को प्रकाशित कर रही है, जो केन्द्रीय सरकार को 28-10-97 को प्राप्त हुआ था।

[संख्या एल-22012/73/एफ/90-आई आर (सी-—II)]
खोली माउ., डेस्क अधिकारी

New Delhi, the 4th November, 1997

S.O. 3010.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Food Corporation of India and their workman, which was received by the Central Government on 28-10-1997.

[No. L-22012/73/F/90-IR (C-II)]
LOWLI MAO, Desk Officer

ANNEXURE

BEFORE SHRI GANPATI SHARMA PRESIDING OFFICER
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
NEW DELHI

I. D. No. 82/90

In the matter of dispute :

BETWEEN

Shri Ram Punit,
C/o Bharatiya Khadya Nigam Mazdoor Sangh,
Y-2059, Mangolpuri,
New Delhi-110083.

Versus

The Distt. Manager,
Food Corporation of India,
Mayapuri,
New Delhi-110064.

APPEARANCES :

Shri R. P. Kasana—for the workman.
Shri A. K. Raina—for the management.

AWARD

Central Government in the Ministry of Labour vide
Order No. L-22012/73/F/90-I.R. (C-II) dated Nil has

referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of FCI New Delhi in stopping the workman Sri Ram Punit w.e.f. 2-2-88 is justified ? If not, to what relief the workman concerned is entitled ?"

2. The parties had sought time of settlement of the dispute and filed settlement Ex. M-1 on 6-6-97. It was stated that the No Dispute award may be passed in this case in terms of settlement Ex. M-1. In view of this situation since the parties have entered into a settlement Ex. M-1 award is passed in terms of Ex. M-1 which shall form a part of the award and finding on both the parties. No dispute remains to be settled in view of this settlement. Parties are left to bear their own costs.

Dated : 2nd July, 1997.

GANPATI SHARMA, Presiding Officer

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, NEW DELHI

I. D. No. 82/90

In the matter of

D.O.H. 6-6-1997
Shri Ram Punit Mandal II Applicant Workman

Versus

Food Corporation of India, Respondent/Management
through its District Manager,
Mayapuri, New Delhi.

Hon'ble Sir,

During the course of proceedings on the preceding date fixed for 12-5-1997, it was desired by the Hon'ble Court to know as to what superannuation/retirement benefits are to be conferred upon the Appellant Workman if he opts for retirement. Accordingly the details are being furnished hereunder :—

1. Gratuity as admissible as on date.
2. C.P.F. dues as standing at the credit of the workman including interest as on date under existing rules as applicable in his case.
3. Encashment of P.L., if any, subject to the balance/availability at the credit of the workman as on date.
4. Amount as standing at the credit of the workman towards family pension deductions under existing rules as applicable in his case.
5. Voluntary retirement benefits, if any, subject to the admissibility under the existing scheme as applicable in his case. (already on the record of this Hon'ble Court). Including compassionate ground appointment etc. of the word, if rules permit.

Any other benefits which are many be admissible before the option for retirement of the workman. However, the wages not earned can not be paid, whereas fringe benefits etc. as admissible are already being paid to him as admitted in black and white by the workman himself (already on the record of the Hon'ble Court itself).

In view of the submissions as aforementioned, it is earnestly solicited to kindly close the case by dismissing the same in favour of the Management/Respondent or appropriate orders may kindly be passed on merit keeping in view the judgements of various Apex Courts i.e. Hon'ble Court of Delhi including Hon'ble Supreme Court of India on the same issue (already on the records of this Hon'ble Court).

It is most humbly prayed accordingly.

Offer accepted

R. P. Kasana, Advocate

Ch. 268, Patiala House Court

For and on behalf of
Management Respondent
Sd/-

District Manager,
Food Corporation of India,
Distt. Office Mayapuri.

नई दिल्ली, 31 अक्टूबर, 1997

का. आ. 3011:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कैनरा बैंक, मुझपिलानगड के प्रबंधन के संबंध में निरोजों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में औद्योगिक अधिकरण कोजिकोड के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 29-10-97 को प्राप्त हुआ।

[स. पं. 12012/86/91-आई. आर. (बी-II)]
सनानन, डेस्क अधिकारी

New Delhi, the 31st October, 1997

S.O. 3011.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Kozhikode as shown in the Annexure in the Industrial Dispute between the employers in relation to the management Canara Bank of Muzhupilangad and their workman, which was received by the Central Government on 29-10-1997.

[No. L-12012/86/91-IR(B-II)]
SANATAN, Desk Officer

ANNEXURE

IN THE COURT OF THE INDUSTRIAL TRIBUNAL,
KOZHIKODE

(Dated this the 30th day of September, 1997)

PRESENT :

Shri M. N. Radhakrishna Menon, Industrial Tribunal
I.D. 31/91

BETWEEN

The Deputy General Manager,
Canara Bank, Circle Office,
Thiruvananthapuram-695001.

AND

Kum. A. K. Jayageetha,
D/o, Late Kumaran,
Kuniyil House,
Muzhupilangad, P.O.,
Kannur District,
Kerala State.

Representations :

Sri. K. V. Sachidanandan, Advocate, Kozhikode.—For Management.

Sri P. Sadasivan, Advocate, Kozhikode—For Worker.

AWARD

1. Government of India referred an industrial dispute in respect of the following matters between the above parties for adjudication to this Tribunal as per their order No. L-12012/86/91-IR-B.II dated 30-9-91, viz.,

“Whether the action of the management of Canara Bank in terminating the services of Kumari A. K. Jayageetha, NND Collector is justified. If not, to what relief is the workman entitled?”

2. In the claim statement submitted by the worker, the following contentions are set out :—

The worker has been working under the management bank from 29-6-1984 as NND Collector in its Muzhappilangad branch till 5-9-90, on which day her services were terminated. In the termination notice dated 5-9-90, it was alleged that she had misappropriated some amount allegedly handed over to her by certain depositors of the NND Scheme

and had tampered with the records of the bank for this purpose. But the management has not conducted any enquiry into the allegations. Thus she was not given any opportunity to prove her innocence with regard to the allegations levelled against her.

3. The worker is an employee coming within the Labour legislations and as such her termination of service is in violation of all provisions of Labour laws. She was discharging her duties to the satisfaction of all concerned and she had earned wide reputation to the bank. The allegations of misappropriation of funds and falsification of related records were attributed to her without any factual basis. There was an ill feeling developed in the mind of the Assistant Manager of the bank against the worker, which has culminated in termination of her services. The summary termination of her services is arbitrary, mala fide and it amounts to victimisation and unfair labour practice. It is liable to be set aside. Therefore, the worker prayed for passing an award directing the management to reinstate her in service with back wages and continuity of service.

4. The management in their counter-statement refuted the contentions of the worker and set out the following contentions :

Smt. Jayageetha was engaged as a NNND agent in their Muzhupilangad branch from 29-6-1984, pursuant to the agreement, executed by her on the said date. This agreement empowered the management to terminate her service without assigning any reason. It is pursuant to the terms of the said agreement that she was collecting money from the depositors and remitting into the branch.

5. Smt. Jayageetha was not a workman under the Industrial Disputes Act. There was no contract of employment so as to constitute employment relationship between her and the bank. The relationship was that of principal and agent. For whatever amount she has collected, she was paid commission at the prescribed rate. The Banking Regulations Act, 1949 prohibits employment of any person whose remuneration or part of remuneration formed commission. Thus Smt. Jayageetha cannot be treated as a workman under Section 2(s) of the Industrial Disputes Act. Consequently, the present industrial dispute and the reference are unsustainable. Her termination of service was for proper reasons. On 5-5-90 it was found that she had misappropriated the amounts collected from the depositors under the NNND Scheme and she had tampered with relevant records to cover up the misappropriation of funds. She was issued with a notice setting out the above allegations and her explanation was sought for. She submitted an explanation denying the allegations, which was found to be not satisfactory to the management. Invoking the provisions under the contract of agency, her services were terminated as per the notice of the management dated 5-9-90. Therefore, her termination is legal and proper. The contentions to the contrary made by the worker are untenable. Therefore, the management prayed for passing an award upholding their action and dismissing the claims of the worker.

6. Evidence in this case consists of oral evidence of WW1 and MW1 Exts. M1 and M2 and Exts. W1 to W11.

7. From the rival contentions of parties, the issues that arise for my consideration are whether Smt. Jayageetha is a workman of the management bank as per Section 2(s) of the Industrial Disputes Act and whether her termination is legal and proper.

The Point :

8. It is common case that Smt. Jayageetha had been working as a NNND collector from 29-6-1984 to 5-9-90 on which day her services were terminated by the management bank. Ext. M1 is an agreement entered into between Smt. Jayageetha and the management bank. It is a contract of agency and the terms and conditions of the agency are set out in the said agreement. It is pursuant to the above agreement that Smt. Jayageetha was conducting herself as a NNND deposit collector. I have scrutinised the terms and conditions of the said agreement and I don't find any material so as to make an inference that there is a contract

of employment evolved in between them. For whatever amount is collected, she is being paid a commission. Section 2 (s) of the Industrial Disputes Act defines the term 'Workman'. The first part of the definition alone is relevant to the context and it is extracted below for convenient reference.

Section 2(s) :

"Workman" means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied underlining supplied).

9. On a perusal of the above, it can be seen that to be a workman there shall be a contract of employment express or implied. In the present case, there is no contract of employment. But there is only a contract of agency. Consequently, she cannot be found as a workman as per the Industrial Disputes Act.

10. Industrial dispute is defined in Section 2 (k) of the Industrial Disputes Act which is reproduced below for ready reference.

Section 2(k) :

"Industrial dispute" means any dispute or difference between employers and employees or between employers and workmen, or between workmen and workmen which is connected with the employment or non-employment or the terms of employment or with the conditions of labour, of any person;"

11. From the above, it can be seen that an industrial dispute is any dispute or difference between employers and employees or between employers and workmen or between the workmen and workmen connected with the employment, non-employment, terms of employment or conditions of labour, of any person. It indicates that the parties to the dispute must be employers and employees or employers and workmen or workmen and workmen. A dispute between an employer and non-workman is not an industrial dispute as per the above definition. I have found that Smt. Jayageetha is not a workman as per Section 2 (s) of the Industrial Disputes Act. Since she is not a workman, the dispute raised by her with regard to her termination of service does not constitute an industrial dispute. Industrial Disputes Act is concerned with investigation and settlement of industrial disputes. Since the dispute between the parties is not an industrial dispute, the provisions of Industrial Disputes Act are not attracted in this regard. Consequently, the reference for adjudication made by the Government of India has to be found unsustainable. The dispute involved in this case is with regard to the termination of agency. That is not an industrial dispute but it is a dispute of civil nature. From the above discussion, I hold that Smt. Jayageetha is not a workman as per section 2(s) of the Industrial Disputes Act and that the dispute regarding her termination of agency cannot be sorted out in the present reference.

12. In the result, an award is passed holding that Smt. Jayageetha is not a workman as per section 2(s) of the Industrial Disputes Act and the present reference is unsustainable and that she is not entitled to any reliefs.

M. N. PADMAKRISHNA MOHON, Industrial Tribunal

APPENDIX IN I.D. 31/91

Witness examined on the side of the Management :

MW1 : O. Mohandas,

Witness examined on the side of the Worker :

WW1 : Jayageetha,

Exhibits marked on the side of the Management :

Ext. M1 : Agreement entered into between Canara Bank and Jayageetha dated 20-6-1984,

Ext. M2 : Letter dated 5-9-90 from the Manager, Canara Bank, Muzhappilangad to A. K. Jayageetha,

Exhibits marked on the side of the Worker :

Ext. W1 : Termination notice issued by the Management dated 5-9-90.

Ext. W2 : Reply from A. K. Jayageetha to the Branch Manager, Canara Bank.

Ext. W3 : Notice issued by the Management to the worker dated 23-5-90.

Ext. W4 : Reply from A. K. Jayageetha to the Manager, Canara Bank dated 26-5-90.

Ext. W5 : Notice from the Manager, Canara Bank to A. K. Jayageetha dated 25-6-90.

Ext. W6 : Reply from N. Prakash, Advocate to the Manager, Canara Bank, Muzhappilangad dated 2-7-90.

Ext. W7 : Notice dated 6-12-90

Ext. W8 : Copy of notice issued by the All Kerala Banks Deposit Collectors' Association dated 27-10-1990.

Ext. W9 : Notice issued to the Management by N. Damodaran dated 10-9-1990.

Ext. W10 : Notice issued to the Management by N. Damodaran dated 10-10-1990.

Ext. W11 : Photocopy of complaints to the Management dated 24-9-1990.

नई दिल्ली, 5 नवम्बर, 1997

का. आ. 3012:--औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार देना बैंक के प्रबन्धन के संबंध निदेशकों और उनके कर्मचारों के बीच, अनुवृद्ध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण संवर्ध-II के पंचाट को प्रकाशित करती है. जो केन्द्रीय सरकार को 4-11-97 को प्राप्त हुआ था।

[सं. एन-12012/10/96--आई. आर. (बी-II)]

सनातन, डेस्क अधिकारी

New Delhi, the 5th November, 1997

S.O. 3012.--In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal-II, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Dena Bank and their workman, which was received by the Central Government on 4-11-97.

[No. L-12012/10/96/IR(B-II)]

SANATAN, Desk Officer.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II

MUMBAI

PRESENT

SHRI S. B. PANSE

PRESIDING OFFICER

REFERENCE NO. CGIT 2/46 of 1996

EMPLOYERS IN RELATION TO THE MANAGEMENT OF DENA BANK

AND

THEIR WORKMEN

APPEARANCE :

FOR THE EMPLOYER : S/Shri S. K. Talsania & V. H. Kantharia Advocates.

FOR THE WORKMEN : Shri Rahul Humane Advocate.

Mumbai, the 17th October, 1997

AWARD PART-II

On 20th May, 1997, by Part-I Award I came to the conclusion that the domestic inquiry which was held against the workman was as per the Principles of Natural Justice and the findings of the inquiry officer are not perverse. Now in this Award I have to answer the remaining issues,

2. The issues and my findings there on are as follows :

Issues	Findings
3. Whether the action of the management of Dena Bank, Mumbai in terminating the services of Shri Kuldeo Gond, Cashier-cum-Clerk is legal and justified ?	Yes.
4. If not, what relief the workman entitled to ?	Does not survive

REASONS

3. To appreciate the case it will be better to narrate the facts in nutshell. Kuldeo Prakash Gond the workman in response to the banks advertisement filled the Biodata form (Ex-6(1)) to the Banking Service Recruitment Board. It is dated 8th January, 1984. He mentioned in that form that he does not belong to scheduled caste. He mentioned there in that he belongs to Scheduled Tribe. He was selected in the category of Scheduled Tribe. He produced the caste certificate dated 10-6-80. It is mentioned there in he belongs to Gond caste which is Scheduled caste.

4. Later on he filled another form for getting the post in the Junior Management cadre. He did not complete that form. It is therefore the bank asked him the details. To the banks query he replied that he belongs to the Scheduled caste and had submitted the certificate. Later on a charge-sheet was issued to him on two occasions viz. securing employment in the bank under the reserved quota and that submission of bogus documents.

5. I have already come to the conclusion that the findings of the inquiry officer are not reverse. In other words the management had proved that the workman secured the employment in the bank in the reserved quota for scheduled tribe category by submission of false statement.

6. The workman filed apurshis (Ex-16) dated 21st August 1997 contending that he does not want to lead any oral evidence in the matter. The management also filed apurshis (Exhibit-17) that they also do not want to lead any oral evidence in the matter.

7. Now it is seen whether the action of the management in termination the service of the workman is legal and justified. The Learned advocate for the workman argued that the information which was given by the workman was not on oath. Therefore such a harsh punishment should not have been given to the worker. He further argued that alongwith that application also a certificate was filed mentioning that he belongs to Scheduled castes. That itself goes to show that he had no intention to deceive the bank. At the most it can be said that he was negligent. According to him it was the duty of the bank to ascertain the facts and as the bank had also committed the mistake it can be said to be contributory negligence as such a harsh punishment should not be granted. I am not inclined to accept this submission. The reason is that he is required to fill up the form correctly. If some mistake was there the fact still remains that when he received the appointment letter it was categorically mentioned that he was selected in the category of Scheduled Tribe and not under Schedules casts. In that case he should have approached the bank stating that there is a

mistake and it may be corrected. He suppressed it. In other words he secured the job which was not meant for him but for somebody else.

8. In Director of Tribal Welfare, Government of Andhra Pradesh Vs. Laveli Giri & Anr. J. T. 1995(3) S. C. 684 Their Lordships observed that 'The admission wrongly gained or appointment wrongly obtained on the basis of the false social status certificate necessarily has the effect of depriving the genuine Schedule caste or Schedules Tribes or OBC candidates evigaded of the benefits conferred on them by the Constitution. By reason thereof, the genuine candidates would be denied admission to professional courses etc or appointments to office or posts under a state instrumentalities.

9. For all these reasons it has to be said that as he got the appointment for the post which was not meant for him he is naturally required to leave the same. The fact that he is having a very clean character, and had served with diligence cannot help him in the matter. In the result I record my findings on the issues accordingly and pass the following order :

ORDER

The action of the management of Dena Bank, Mumbai in terminating the services of Shri Kuldeo Prasad Gond, cashier-cum-clerk is legal and justified.

S. B. PANSE, Presiding Officer

नई दिल्ली, 5 नवम्बर, 1997

का. आ. 3013.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबन्धन के सबद्ध नियोजकों और उनके कर्मचारियों के बीच, अग्रदूत में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण मंडल-II के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-11-97 को प्राप्त हुआ था।

[सं. एल.-12012/264/85-आई. आर. (बी.-II)]

सनातन, बैंक अधिकारी

New Delhi, the 5th November, 1997

S.O. 3013.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of of the Central Government Industrial Tribunal-II, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Canara Bank and their workman, which was received by the Central Government on 4-11-1997.

[No. L-12012/264/85/IR(B-II)]

SANATAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI PRESENT :

Shri S. B. Panse, Presiding Officer.

Reference No. CGIT-2/48 of 1986

Employers in relation to the Management of Canara Bank, Malad (West),

Their Workmen.

REASONS

APPEARANCES :

For the Management : Shri R. S. Pai,
Advocate.

For the Workmen : Shri M. B. Anchan,
Advocate.

Mumbai, dated the 15th October, 1997

AWARD

On 27-4-92 Part-I Award as passed by my predecessor wherein he came to the conclusion that the domestic inquiry which was held against the workman was against the principles of natural justice and an opportunity was given to the management to justify its action.

2. The management lead evidence before me to justify its action. On 9-12-94 by Part-II Award I came to the conclusion that the action of the Canara Bank of dismissing H. T. Koli the clerk is not justified. I further directed for reinstatement, continuity in service and full back wages. I also awarded costs of Rs. 300.

3. Being aggrieved by the Award the bank preferred a writ petition No. 1083 of 1995 before the High Court of judicature at Bombay. His Lordships allowed a writ petition and remanded back the matter for fresh decision in accordance with the law. It gave an opportunity to the employer bank to lead evidence on rebuttal to the letter dated 1-7-82 or call the workman for cross-examination on this aspect only. The worker was called for further cross-examination as requested by the employer. In view of the observations of His Lordships in paragraph-9 I have to decide the matter in accordance with the law.

4. The issues that fall for my consideration and my findings there on are as follows :

Issues	Findings
3. Whether the dismissal of Shri H. T. Koli, Clerk of Canara Bank, Malad West Branch, Bombay w.e.f. 25-2-82 by the management of the Canara Bank Bombay, is justified ?	Not justified.
4. If not, to what relief the workman is entitled ?	Reinstatement with full back wages and continuity in service.
5. What Award ?	As per order.

5. H. B. Koli (workman) was appointed by the Canara Bank (Employer bank) as a typist-cum-clerk in the month of December 1975. He was transferred to Malad (W) Branch of the Bank in the year 1980. It is alleged that while he was working there he perpetrated funds involving a sum of Rs. 77,600. The devise adopted by him for the commission of the said fraud was that he would inflate the credit balance in the saving bank account holder Shri Shankar Sanjeev Rao bearing Saving Account No. 15052.

6. It is alleged that due to fraudulent alteration made in the account of Shankar Sanjeev Rao he could withdraw from time to time the amount of Rs. 77,600. It is further alleged that the amount of Rs. 25,000 which is transferred to Modi Printers on 15-5-82 was withdrawn to the extent of Rs. 24,000 on the same day. It was a gross misconduct on the part of the workman.

7. From the chargesheet (Ex-27) it reveals that the savings bank account No. 15052 in the name of Shankar Sanjeev Rao was opened at the instance of the worker on 7-4-82. Thereafter some amounts were shown to be deposited in this account. The worker changed the figures by opening some figures on the back side of it and increased the amount. Later on the amounts were withdrawn by the account holders.

8. On 27-4-82, the amount of S.B. Account No. 15052 was reported to be Rs. 5 which was later on altered as 14.005 by adding the figure 1400 on the left side of the figure "5" and thereby increasing the credit balance in the said account by Rs. 14000. On 28-4-1982, the amount deposited in the said account was reported to be Rs. 15 which was later on to Rs. 6015 by adding the figure '60' on the left side of the figure '15' and thereby increased the credit balance by Rs. 6000. Again on 6-5-1982 the amount deposited in the said account was reported to be Rs. 25 which was later on altered to Rs. 18025 by adding the figure '180' on the left side of the figure '25' and thereby increased the credit balance by Rs. 18,000 and on 20-5-1982 the amount deposited in the said account was reported to be Rs. 100 which was later on altered to Rs. 40,100 by adding the figure 40 on the left side of the figure 100 and thereby increased to the credit balance by Rs. 40,000.

9. To instify the action of the management it examined Sabrina Henriques (Ex-39) clerk, Ratan Kumar (Ex-40) Manager, Shankar Shetty (Ex-43) Divisional Manager and Mrs. Sumangala Mahale (Ex-44) special assistant clerk.

10. It is the charge that the workman is responsible person for getting opened the Saving Account No. 15052 in the name of Shankar Sanjeev Rao. It is to be seen whether it is a fact or not.

Exhibit-15 is an application for opening the account. There is a column for introduction. The name of Koli does not appear to be there. This form nowhere bears the signature of the workman having the introduction of Shri Shankar Sanjeev Rao. Ratan Kumar affirmed that Shankar Sanjeev Rao wanted to open S.B. Account in his bank when he was working as an officer there. He asked for introduction. According to him workman came there and told him that he knew Mr. Shankar Sanjeev Rao. He also told that he had a current account in the name of Modi Printers. Therefore his account came to be opened. It can be seen that if a particular man is having a current account in the name of Modi Printers which is used for business purpose then for opening of savings accounts an introduction of somebody appears to be not acceptable. The bank wants a person to be introduced who is not known to it. But in this particular case he is known through Modi Printers which was operated by him. It can be further seen that the workman denied to have come there and introduced the concerned Shankar Sanjeev Rao to the Manager.

11. Ratan Kumar does not know whether the current account No. 1720 belongs to Sanjeev Shankar Rao or Shankar Sanjeev Rao. He had not personally checked up the accounts as it was checked up by his supervisor of that section and afterwards it came to his section. According to him thereafter the account was opened in the name of Shankar Sanjeev Rao. No record is produced to show that the current account No. 1720 stands in the name of Modi Printers operated by Shankar Sanjeev Rao. On the other hand the workman affirmed to that fact. It can be further seen that the ledger of the current account holders was verified. At that time he was working in the Loan and Tapal department. He was also not working in the saving account.

12. Ratan Kumar affirmed that in the investigation it was found that the worker had made alteration in the ledger. There appears to be no cross-examination but the workman did affirm that he had not done any alterations in the ledgers and Ratan Kumar and others who deposed against him are responsible for the said fraud. Infact the workman had denied all the allegations against him in his affidavits.

13. It is tried to bring on the record that the account of Modi Printers was opened after the introduction of Sone Sajan Stores whose proprietor was Ajit Singh Rana. It is tried to suggest that Ajit Singh Rana asked the workman to help him for opening the current a/c. and then the savings a/c. The workman denied the same. Ajit Singh Rana is not examined before me to substantiate the contention of the management. For all these reasons it appears that there is no record to show that the workman had a hand in opening the saving account in the name of Shankar Sanjeev Rao.

14. Sabrina the clerk was working the savings department at the relevant time. Her duty was posting the entries in the ledger alongwith other work. She noticed the difference of Rs. 11,000 in May 1982. She found overwriting in the ledger pertaining to the account of Shankar Sanjeev Rao. She reported the matter to the superior.

15. Sabrina affirmed that the workman used to take initiative in completing the formalities and giving token for withdrawal of money from savings bank account of Shankar Sanjeev Rao. But she never complained to the superiors regarding it. On 30-4-82 a person came with a bearer cheque of Rs. 5,000 for the second time on that day for withdrawing the amount from the account of Shankar Sanjeev Rao. After making inquiries with him it was reported to her superiors Mrs. Mahale. She in turn questioned the bearer of the cheque who informed that he knew Koli. She deposed that in her presence Mahale made inquiries with the workman whether he knows him. He answered in the affirmative. Mahale (Ex-44) corroborates it. But on the other hand the workman affirmed that he did not identify in person who brought the bearer cheque of Rs. 5,000.

16. Sabrina affirmed that she had seen the workman taking the cheques for withdrawal from the Savings Bank Account of Shankar Sanjeev Rao and bring it to her. Then he used to open the ledger and also use to write the token number on the cheque. The cheque Numbers 090926, 090928 pertaining to Savings Bank account of Shankar Sanjeev Rao, Koli had written the token number and letter 'T' respectively. Infact that was not the work of the workman. But she never complained to the superiors regarding it. It is a serious fraud. Under such circumstances it is very difficult to accept her word. The manager also affirmed that he had seen the workman taking undue interest for making the cheques pertaining to Savings Bank account of Shankar Sanjeev Rao. If really he would have seen that, then he being the officer at the time he was bound to inform the superiors and warn the worker not to follow any such practice. But he had not done so. It is therefore very difficult to accept the words of Sabrina, Mahale and that of Ratan Kumar that the workman was taking undue interest for passing the cheques of Shankar Sanjeev Rao.

17. Shetty (Exhibit-43) Divisional Manager affirmed that he alongwith Mr. Bhandari went to the branch for investigation on the basis of the report with branch manager involving the fraud of Rs. 78,000 on 20-5-82. They recorded the statement of workman then the Manager Ratan Kumar and the clerks Mrs. Mahale & Ms. Sabrina.

18. Shetty affirmed that after recording these statements he, Bhandari and the worker went to Malvani Colony to trace Sanjeev Shankar Rao who

was the account holder in whose account the said fraud took place. According to him the worker told him that he knew Shankar Sanjeev Rao and he facilitated him to withdraw the amount. When they reached there Rao was not there and he could not be traced. According to him thereafter the worker took them to Sajana stores who was the introducer of the current account of Shankar Sanjeev Rao. Kana is the proprietor of the said store. He was not available then. The message was left at his place to attend bank on the next day. Thereafter they went to the resident at Malvani colony. According to him the worker told him that he used to receive telephonic instructions from Rao to make the payment of his cheques whenever his servant came to the bank. He affirmed that the worker informed him that one Vamta another employee of the bank told him to help in the matter.

19. On the next day morning Shetty and Bhandari went to the bank. Kana came there. He accepted that he introduced Sanjeev Shankar Rao to the bank at the recommendation of Koli. Thereafter on the suggestion of Koli they went to Goregaon where Rao had a dye making shop. But he could not be traced there. Thereafter they proceeded to the circle office at Cuffee Parade in Bhandari's car. On their way Shetty went to the Assistant Commissioner of Police Mr. Patwardhan. He affirmed that when he returned back the workman in presence of Ratan Kumar and Bhandari told him that he altered the ledger figures in the Savings Bank account of Rao and helped him to withdraw the amount. He also said that if time is given he will trace out Rao and produce him before the police or the bank. Shetty affirmed that when the workman gave the statement which was partly recorded by Bhandari and partly by the workman himself. These statements are dated 22-5-82 and 21-5-82. The workman affirmed that by using force the statement was recorded from him. It was suggested to Shetty that the worker was threatened and he was kept in a room and then the statement was recorded. Bhandari who had written the statement has not deposed before the Court. He is a material witness. No reason is given by the management why he is not examined. The workman in categorical term (Ex. 47) affirmed that the alleged statement was taken from him under duress. It was dictated to him partly by Shetty and partly by Bhandari. He had also affirmed that it was taken by him by using force by Shetty and Bhandari. It was not a voluntary one. In the cross-examination no doubt he admits that it appears his signatures on page No. 5, 6, 7 and it is in his own handwriting. I am not inclined to accept that a person on his own accord will accept such a guilt unless an assurance is given to him or that any force is used against him.

20. On perusal of the statement it can be seen that it is specifically mentioned there in that the

contents in this statement from Nos. 1 to 4 are given by him in his free will without any force and coercion by any body and they are true. There is no need of making such an endorsement when such a statement is made. The fact that such endorsement is made creates a doubt regarding its genuineness.

21. On 13-9-89 the workman produced documents which are at Exhibit-7 to 17, Exhibit-9 is a notice given by the workers Advocate to the management dated 1-7-82. It is received by the management and the acknowledgment receipt is at Exhibit-54/1. In this notice it is categorically mentioned by the Advocate that the said statements were taken from the workman by force, misrepresentation and undue influence when the workman was in a distressed condition. This stand was taken by the workman within a reasonable time. It can be further seen that it is not the case of the management that they did not receive this letter. It is tried suggest that by this notice the workman was asked him copies of the statement. No doubt he did ask but the fact still remains he asserted that his statement was recorded by using force and duress.

22. Exhibit-7 is a letter written by the workman to the management after receiving a show cause notice. In this letter he had asked for the copies of the alleged statements and statements of the witnesses. There is another letter by workman to the manager dated 16-6-82. Here also he asked for the copies of the relevant documents. No doubt in these two letters there is no whisper of alleged force or a threat used by the management. It is tried to submit on behalf of the management that under such circumstance it has to be said that no force was used against the workman. I am not inclined to accept this. It can be seen that by these two letter what was the demand of the workman was for getting the copies because he wanted to give a say to the show cause notice. Thereafter he approached the Advocate and had given the notice. I find that the action which was taken by the workman cannot be said to be an after thought.

24. It is argued on behalf of the management that if statement dated 20-5-82 would have been taken by using force on the next date the workman should have raised objection. It is practically impossible. The reason is that when such charges were levelled against the workman and investigation was carried out by the person like Divisional Manager it is difficult for the workman or any person of his status to raise any objection at that time. The objection raised by the workman was at the proper time.

25. An amount of Rs. 25,000 was transferred to Modi Printers on 15-5-82 out of that amount and an amount of Rs. 24,000 had already been withdrawn on the very day. At the relevant time

the workman was not working in the Savings bank department. He was working in the loan and 'Tapal Department. Naturally he was not in a position to handle the ledgers of the savings account. It is not in dispute that after the officer hours the ledgers are kept in lockers. During the business hours the ledgers are with the ledger clerk and therefore there was no change for the workman to alter or make any alterations in the ledger. It is pertinent to note that after the fraud was committed the specimen hand writing of the workman and that of the alterations in ledger were sent to the hand writing expert. But the hand writing expert had opined that it is not possible to express any opinion on the red ink enclosed marks on the basis of the material supplied to him. In other words the hand writing expert could not say that the latered figures were in the hand writing of the workman. Under such circumstance it is difficult to accept that the workman had altered the figures enabling the account holder to withdraw the amounts.

26. It is tried to argue on behalf of the workman that as he is acquitted in the criminal case on the same charges he should be given benefit or the same. I am not inclined to accept his submission because there is always difference between criminal proceedings and the domestic inquiry. The proof required in both proceedings is quite different. It is well settled that the guilt in the criminal case does not give any right to the delinquent to get rid of from the domestic inquiry. But, that is to be taken into consideration while appreciating the evidence.

27. In the case of Jain Vs. State Bank of India (1982) 1 LLJ 54, The Supreme Court had held that standard of proof required in respect of the disciplinary proceedings in the Industrial adjudication is distinct and different from the standard proof required in criminal proceedings. It is observed by Their Lordships that even a hearsay evidence is admissible and can be relied upon in industrial adjudication in disciplinary proceedings. The ratio in the said authority had no application to the present set of facts. It is because I have come to the conclusion that the alleged statement was given by the workman due to undue influence, trust and force used by the officials against the workman. Under such circumstances it cannot be said to be a voluntary confession made by the delinquent.

28. The Learned Advocate for the management placed reliance on Kuldeep Singh Vs. State of Punjab 1996(74) FLR 2378. Their Lordships considered the relevancy and propriety of relying on admission during the course of departmental proceedings and has upheld that in India evidence recovered or discovered even as a result of illegal search is relevant. The Apex Court further held that the confession made to the police authorities while in custody can be acted upon in a depart-

mental/disciplinary inquiry and it is for the disciplinary authority to decide the question as to whether the admission is voluntary or otherwise. I have come to the conclusion that the admission of from the domestic inquiry. But, that is to be taken into consideration while appreciating the or the confession is not a voluntary. It is therefore, the ratio in the said authority has no application.

29. In the case of Additional District Magistrate Vs. Prabhakar Chaturvedi & Anr. 1996(1) LLJ 811, the employee gave the statement admitting the guilt that he received Rs. 20,000 but later on pleaded that, that statement was under the coercion. The Apex Court rejected the plea of coercion taken in the proceedings and held that it is appropriate to prove the charges on the basis of the said admission. Here it can be seen that the plea of coercion was taken by the workman in the notice itself. In other words he had taken that plea at the earliest opportunity. I therefore find that the ratio given in this authority has no application. For the reasons stated above I record my findings on the issues accordingly and pass the following order.

ORDER

The dismissal of Shri H. T. Koli, Clerk, w.e.f. 25-2-82 by the management of Canara Bank, Bombay is not justified.

The management is directed to reinstate Shri H. T. Koli, with full back wages and continuity in service.

S. B. PANSE, Presiding Officer

नई दिल्ली, 6 नवम्बर, 1997

का.आ. 3014.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बैंक आफ बरोडा के प्रबन्धन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण अहमदाबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 5-11-97 को प्राप्त हुआ था।

[सं. एल-12012/546/89-डी-II ए]

सनातन, डेस्क अधिकारी

New Delhi, the 6th November, 1997

S.O. 3014.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of Bank of Baroda and their workman, which was received by the Central Government on 5-11-97.

[No. L-12012/546/89/D.I.A.]

SANATAN, Desk Officer

ANNEXURE

BEFORE SHRI P. R. DAVE, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, (CENTRAL) AHMEDABAD

Ref. (ITC) No. 25 of 90

ADJUDICATION

BETWEEN

Bank of Baroda, Vadodara . . First Party.
Versus

Shri P. B. Pandya,
46, Jivramnagar
Darjipura Road
P.O. Sayajipura,
Nr. Golden Tobacco,
Baroda.

. . Second Party

In the matter of termination of Shri P. B. Pandya,
Sub-staff, Naswadi Branch of Bank of
Baroda.

APPEARANCES:

Shri K. V. Shah, Advocate, for the first party.

Shri S. Barket, Advocate for the second party.

AWARD

This industrial dispute between Bank of Baroda, Vadodara and one Shri P. B. Pandya, sub-staff, Naswadi Branch of Bank of Baroda has been referred for adjudication to the Industrial Tribunal Ahmedabad by the Desk Officer, Ministry of Labour, Govt. of India, New Delhi under the order No. L-12012/546/80/D-2-A dated 26-3-90. Thereafter under an appropriate order it has been transferred to this Tribunal for proper adjudication.

2. The dispute pertains to the demand in connection with the termination of Shri P. B. Pandya, Sub-staff Naswadi, Branch, Bank of Baroda, as is mentioned in the order of reference:

"Whether the action of the management of Bank of Baroda in terminating the services of Sh. P. B. Pandya, Sub-staff, Naswadi Branch is justified? If not, to what relief the workman entitled?"

The facts giving rise to the present reference to be briefly stated as stated in the statement of claim Ex. 7 are as under :

The second party concerned workman Shri P. B. Pandya (hereinafter referred to as 'workman') was serving as sub-staff at Naswadi Branch of the first party bank (hereinafter referred to as the 'bank') since, 1979 and his record was neat and clean. But the bank dismissed him illegally and wrongly to spare some officials who were interested in the matter and were not in good terms with the workman. Therefore the workman was charge-sheeted for some alleged misconduct only with **malafide intention** of dismissing him and that the result was pre-determined. He was charge-sheeted and alleged enquiry was held against him which was illegal and unconstitutional and voidable as the workman was not afforded any opportunity

of defence. Therefore it was in contravention of principles of natural justice and the order of dismissal was passed without proper conciliation of the issues raised by the concerned workman. In a nutshell the bank had not followed the rules and regulations of the bank itself and the legal provisions of Industrial Disputes Act, 1947, and the statutory conditions of the service applicable to the concerned workman and therefore the workman should be re-instated with back wages and consequential benefits.

3. The bank has filed written statement at Ex. 9 and denied the facts and allegations in the statement of claim and stated that the workman was employed at Naswadi Branch of the bank as sub-staff since 1979, where he has committed some misconduct of corrupt practices and he was charge-sheeted and after legal and proper enquiry on finding him guilty of misconduct of collecting gratification from about 17 loanees he was issued second show cause notice and thereafter, after due consideration he was dismissed and the proceedings are not illegal or without any substance and are not with a view to take revenge against the second-party workman, and therefore the reference should be rejected.

4. Initially as the second party had challenged the legality and propriety of the enquiry proceedings and also the issue regarding legality and propriety of the departmental enquiry was decided first as preliminary issue by the Tribunal and after taking evidence and after hearing, the enquiry was held legal and proper by the Tribunal vide its Order dated 4-5-92 at Ex. 42 and thereafter the parties have lead evidence for remaining issues. After enquiry held legal and proper, the second party examined the concerned workman Shri Pravinkumar Babubhai at Ex. 49 witness Bhamabhai Ratanbhai at Ex. 51.

5. The first party bank had not lead any oral evidence.

6. As the enquiry was held legal and proper now following issues arise for the determination of the following issues on merits.

1. Whether the findings are perverse?
2. Whether the order passed by the first party bank is legal and proper?
3. Whether the punishment awarded to the concerned workman is disproportionate to the alleged misconduct?
4. What order?

My decision on the above issues are as below :

1. In negative.
2. In affirmative.
3. In negative.
4. As per order.
7. I have heard both the parties on these issues.
8. The reasons for all the issues are same and inter-connected and hence are discussed together, Mr. S.

Barket, for the second party repeated the facts of the case of the second party and vehemently submitted that in this particular matter, the workmen was dismissed for the alleged misconduct of corrupt practices, after holding enquiry and finding him guilty, but though the enquiry is held legal and proper by the Tribunal, it was necessary to consider some aspect of the enquiry also, in order to see how the findings are perverse. Mr. Barket submitted that the presenting officer was non-Gujarati and therefore he has proceeded with the enquiry in English and it was not possible for the workmen to understand each and every thing and therefore it was likely to prejudice the interest of the workmen. Mr. Barket submitted that loanees were not new persons for the bank as earlier also they had taken loan from the bank and therefore why should they give money to the workmen and there was no cause of action. Mr. Barket submitted that all enquiry was held with malafide intention only to dismiss the workman as he had earlier refused to take loan to the residence of particular officer without permit and there he was annexed and the proceedings and act of the bank in dismissing the workman was with the intention of revenge only, otherwise loanees were knowing that to pass loan is not the intention of the delinquent workman and so they have no cause to give bribe or illegal gratification or any money to the concerned workman. Mr. Barket further submitted that the punishment should be reduced to that of awarding reinstatement with some percentage of back wages. In case of this Tribunal coming to the conclusion that there was a case against the workman as it is within the power of the Tribunal to reduce the punishment. He cited 1982 GLR 1057 the case of R. M. Parmar v. GEB. He also cited the case of Scooter India Ltd., vs. Labour Court 1988 I LLJ page 71 and submitted that the justice should be tampered with mercy giving an opportunity to the erring workman to prove himself to reformed and disciplined employees of the petitioner bank.

9. The arguments of the second party has no substance as whether the presenting officer was non-Gujarati or not whether any bias caused to the delinquent employee was the subject of enquiry proceedings and at the time of holding the evidence for the parties of proving the enquiry is illegal and in contravention of the principles of natural justice, the delinquent employee should have raised this point, even during the enquiry that he was not in a position to cope with the statement of presenting officer. And after holding the enquiry legal and proper by the Tribunal, this fact cannot be taken into consideration at this stage. The non-existence of any cause to parties or the customers to give any money to the workman is contended is also not pleaded anywhere by the second party, during the enquiry or in statement of claim and whether there was a cause for the customer to give money to the concerned workman is also not material point in this reference as the customers have admitted in enquiry that the illegal gratification was demanded and they have given money to the concerned workman and it is also not the case of the bank that it was the function of the workman to pass loan. But the case of the bank was that the illegal gratifications were collected from about 17 loanees on the pretext that their loans were sanctioned because of the second party's efforts in the bank and whether the illegal gratification was demanded and was paid,

is the actual issue, the charge of which was levelled against the workmen. The enquiry was held on the levelled charge and enquiry officer found him guilty of the same misconduct. Now on the set of facts proved during the enquiry, what weight should be given to a particular evidence and opportunity to appreciate the deposition and submission of the parties before enquiry officer is the subject of the enquiry officer and once legal and proper enquiry is held, the Tribunal cannot go into the question, whether the evidence lead before enquiry officer was properly appreciated or not. And Tribunal cannot interfere with the findings of the enquiry officer merely on the ground that another view is possible on same set of facts proved before enquiry officer.

10. Mr. K. V. Shah, for the bank rightly submitted that the scope of the discussion after enquiry held legal and proper is very limited now and if the findings are supported by the materials placed before the enquiry officer and if the enquiry officer has even reasons for the conclusions, considering the evidence read before him, then the findings cannot be labelled as perverse. And if the findings are not perverse the only question remains before the Tribunal is whether the order of punishment is legal, proper and proportionate to the involved misconduct.

11. The competency of the authority passing the dismissal order is not in question before the Tribunal and therefore when the authority gives opportunity to the workman, and the workman is held guilty in enquiry and the order is based upon that conclusions arrived at in the enquiry and the authority is competent to pass order, then naturally, the order would be legal and proper and of the balanced one, the Tribunal should not be interfered with it. It is true that the Tribunal can reduce the punishment in appropriate cases, if the punishment awarded is shockingly disproportionate. But the quantum of punishment should be proportionate to the misconduct involved in the matter and if the charges levelled against the delinquent employee are of serious nature, the Tribunal should not interfere with the quantum of punishment by taking lenient view. Mr. K. V. Shah further submitted that the charges of illegal gratification are of serious nature and the act of misconduct was represented in the matter and there was no proof of any victimisation and the appellate authority of the bank rejected the prayer of pardon. Therefore this is not a proper matter for taking lenient view. Mr. Shah cited the judgement of Supreme Court in the case of State of U. P. and Anr. v. Ved Pal Singh and Anr. Published in 1996 (8)—part 199 p. 798, in 'Supreme Today'.

12. The misconduct involved in the matter is grave and serious. This Tribunal can go on the line of the judgement in the case of Scooter India Ltd., Vs. Labour Court, 1988 I LLJ p. 71 only if the misconduct involved in this matter is not so serious. In the case of Scooter India, the misconduct was not illegal gratification. On the pretext that the workman made efforts in sanctioning loans to the customers. The post of bank employee is a post of trust of whatever kind it may be and these circumstances the degree of gravity of the misconduct increases and recent judgement of Hon'ble High Court of Gujarat in case of Gujarat State Road Transport Corporation vs. Bhikhabhai Manjibhai 1997 I GLR

416. It is held that the misappropriation should be viewed with degree of seriousness. In the case of State of U. P. Vs. Ved Pal Singh 1996 (8) 'Supreme Today' p. 798 Hon'ble Supreme Court has observed that in para—4 C :—

"Corruption is the result of deep-seated moral degradation and unsatisfied greed for wealth. The office of public service afford an opportunity to the public servant to abuse of the office in that pursuit to accept illegal gratification for the discharge of official duty. Criminal prosecution launched against the public servant many a time may end may be due to technical defects inapathy on the part of the prosecution or approach in consideration of the problem or the witnesses, turn hostile or other diverse reasons but the meet of the matter is that on equitable consideration of the problem or the witnesses, turn hostile or other diverse reasons, but the meet of the matter is that on equitable consideration the Government servant claims reinstatement into service. Equity per se may not prevent the Government to take appropriate action under the conduct rules or under Article 311 of the Constitution but many a time they do become fruitless exercise. Resultantly public servant on re-instatement claims consequential benefits including back wages. On many a occasion, public servant avoids the detection of corruption or by skilful management proof of Commission of corruption would be wanting be wanting. But his conduct gains notoriety in service and among public in that behalf payment of back wages and impetus and a premium on corruption. The society has to pay the price for corrupt officers from public exchequer. Therefore, when the Court directs payment of back wages or reinstatement, the court/tribunal is required to consider the back-drop of the circumstances and pragmatically apply the principle to the given set of facts."

In the recent judgement of Divisional Controller, Gujarat State Road Transport Corporation Vs. Ratan Singh Thakkar 1997 II GLH p. 230, the Hon'ble Gujarat High Court has discussed the scope of Section 11-A of the Industrial Disputes Act and observed that :—

"In the matter of quantum of punishment by the disciplinary authority, interference by the Labour Court is uncalled for, unless punishment is considered as shocking the conscience of the Court. Punishment has to be considered with reference to the gravity of proof of misconduct and not to the general condition of unemployment prevailing in the country."

The Honble Gujarat High Court has also observed in the case of Rajkot Municipal Corporation Vs. Navinchandra I. Vyas 1997 II GLH p. 331 observed that :—

"The power of the Labour Court to interfere with the penalty is not unguided and has to be exercised judicially. This power should not exercise solely on the basis of theory of socialism or social justice and Tribunal can interfere only when the punishment is highly disproportionate to the guilt of workman."

It should be noted that after legal and proper enquiry, if the guilt is proved, what punishment should be awarded in the circumstances of the case in view of the post of the workman, nature of the work of the workman and gravity of the misconduct proved in the enquiry, is the right and discretion of the employer and also Tribunals are not appellate forum upon it and as we discussed above it is the established principle of the law that the Tribunal should not interfere with the quantum of punishment unless it is shockingly disproportionate to the misconduct. In the present case the corrupt practice involved is not a minor misconduct and therefore the punishment of dismissal is not shockingly disproportionate to the misconduct involved in the matter and therefore the Tribunal should not interfere with the quantum of punishment. Hence the reference should be dismissed.

In view of above discussion I pass the following order.

ORDER

The reference is hereby dismissed with no order as to cost.

Sd./-

SECRETARY.

Ahmedabad : 17th October, 1997.

P. R. DAVE, Industrial Tribunal

नई दिल्ली, 5 नवम्बर, 1997

का.आ. 3015.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिन्दुस्तान पेट्रोलियम कारपोरेशन लि. के प्रबन्धतंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2, बम्बई के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 4-11-97 को प्राप्त हुआ था।

[सं. एल. 30012/5/94—आईआर (कोल I)]

ब्रज मोहन, डैस्क अधिकारी

New Delhi, the 5th November, 1997

S.O. 3015.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Bombay as shown

in the Annexure in the Industrial Dispute between the employers in relation to the management of Hindustan Petroleum Corp. Ltd. and their workman, which was received by the Central Government on 4-11-1997.

[No. L-30012/5/94-IR (Coal I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. II, MUMBAI

PRESENT :

Shri S. B. Panse, Presiding Officer

REFERENCE NO. CGIT-2/12 OF 1995.

Employers in relation to the management of
Hindustan Petroleum Corporation Ltd.

AND

Their Workmen

APPEARANCES :

For the Employer : S/Shri S. K. Talsania
& V. H. Kantharia Advocates.

For the Workmen : S/Shri S. S. Pakale
& R. V. Pillai Advocates.

Mumbai, dated 9th October, 1997

AWARD—PART-II

On 2nd January, 1997 by Part-I Award, I came to the conclusion that the domestic inquiry which was held against the workman was as per the principles of natural justice and the findings of the inquiry officer are perverse. The management was allowed to lead evidence to justify its action.

2. In short J. K. More, D. B. Narurkar and A. R. Namade the workmen concerned were working as a weigh bridge operators at concerned time. Their nature of duties were essential to attend processing work of oil movement and control centres of Bombay (Mahul Refinery) to receive crude oil from Butcher Island and to pump it to main unit for refining. After the said oil is refined in the main unit to receive the same and to fill it in

various tanks as per their respective grades. Thereafter to despatch the same to various terminals/locations through pumps as per the process orders and to keep record of the same at every stage. The said terminals/locations come under market divisions.

3. The C.I.D. branch received information that some malpractice is going on in the refinery. They also received the information that Rajesh Road Lines who is having a fleet of tankers and operates in the refinery is involved in it. They also received the information that the tankers were used to pilfering excess quantity of oil. Inspector Khillari apprehended the tank truck bearing No. MHS-5175 which was carrying 10,000 litres of crude oil. It was taken out from the motor tanker No. MCU-1914. The crime was registered and on investigation these workmen were found to be involved, a chargesheet was filed against these workmen alongwith others before the Metropolitan Magistrate. The Metropolitan Magistrate discharged these workmen alongwith some others. Thereafter the management started a domestic inquiry management these workmen.

4. Now the issues that fall for my consideration and my findings thereon are as follows :—

Issues	Findings
3. Whether the order dated 9-3-93 passed by the management of H.P.C. Ltd. in dismissing services of Shri J. K. More S/Shri D. B. Nerurkar and A. R. Namade is legal and justified?	No
4. If not, to what relief the workmen are entitled to?	As per order.

REASONS

5. A separate domestic inquiry was held against each of the workmen but the reference is one. After the findings of the preliminary issues the management examined Digeesh Kumar Agarwal, Senior Manager (Organisation) at Ex-25, 26 and 27 for workmen More, Nerurkar and Namade respectively. He affirmed regarding the procedure.

- (a) The tank truck when comes to the gate of Mumbai Refinery for filling up CBFS, the authorisation slip to load the CBFS product issued by Mahul Terminal (marketing location) produced by the driver at Weigh Bridge for weighment.
- (b) Thereafter only one tank truck at a time would be allowed to come to weigh Bridge for Tare weight. The weigh bridge was manually operated. The tare weight of the truck is recorded in the weighment slip and also in the weigh bridge register.
- (c) The truck then proceeds to loading area. The driver of the truck loads the CBFS product in the truck to full capacity of the truck. After loading, the truck comes back to the weigh bridge. Once again the truck is weighed and the gross weight is recorded in the weighment slip and weigh Bridge Register. Recording and counter signature of tare weight and gross weight in weighment slip is done by weigh Bridge Operator. However, operations are witnesses and counter signed by weigh bridge supervisor in weighment slip.
- (d) Thereafter the driver/cleaner proceeds to the gate pass window for gate pass preparation. Gate pass is prepared by a clerk/technician and signed by the supervisor after verifying that all details in the weighment slip and gate pass are correctly recorded. Thereafter truck proceeds to gate for security checks before leaving the refinery.

6. In the cross-examination he categorically admits that he is not directly concerned with the incident. He does not know what are the documents which are produced by the workman. He accepts the position that the procedure followed in 1982 had no supervisor on the weigh bridge but in the year 1986 there was a supervisor who was witnessing tare weight and gross weight. The alleged incident had taken place after 1986. That clearly speaks that the supervisor was there on the weigh bridge. The witnesses had no personal knowledge regarding the incident. I find that

this witness is not of much help to the management to prove the charges against the workman.

7. Ashok Laxman Khillari (Ex-29) is a Police Inspector who had done the investigation in crime No. 156 of 1986. On 14-3-1986 he intersected a motor tanker having No. MHS 5175 which was loaded with 10,000kgs. of CBFS oil. During the course of investigation it was revealed that motor tanker No. MCU 1914 had loaded with 20,000 kgs. of CBFS at H.P.C.L. refinery. On way to destination 10,000 kgs. from MCU-1914 was removed and filed in to MHS-5175. On the challan it was mentioned only 10,000 kgs. were filled in the truck at H.P.C.L. He affirmed that it was done with the connivance of H. P. C. L.

8. Khillari affirmed that they arrested the employees Mohite, Bhoir and Dhuri. They had given statements before the police accepting their involvement in the crime and other employees. Then they were produced before the Metropolitan Magistrate for recording their confession. Their confessions were recorded. It is not in dispute that they have retracted their confessions later on in the proceedings. He affirms that the statement which were given by them before him are on the record and from perusal of those statements and the confession before the Metropolitan Magistrate it revealed that the workman More Nerurkar, and Nemade are involved in the crime. It is therefore they were arrested and prosecuted.

9. More (Ex-31), Nerurkar (Ex-32) and Nemade (Ex-33) corroborates each other and affirmed that the statements which were made by the employees before the police and the confessions before the magistrate were due to compulsion and undue influence. They tried to make out the case that they are not at all concerned in the offence. From the testimony Agarwal and that of Khillari nothing had come on the record that these workmen involved in the offence and the charges which were levelled against them are proved in the domestic inquiry. These workmen accept that they have signed the challan and their signatures are appearing in back side of the slips which are produced on the record. But that does not help for proving the charges levelled against them.

10. Mr. Talsania the Learned Advocate for the management argued that the charges levelled against the workman can be held to be proved on the basis of the statements made by Mohite and Bhoir. He further submitted that it is now well settled position in law that the statement made by the delinquent before the police authorities may not be admissible in evidence before the court of law but can definitely be taken into account in disciplinary proceedings since strict rules of evidence do not apply to the domestic inquiry. To substantiate this contention he placed reliance on *Kuldeep Singh Vs. State of Punjab and Ors.* J. T. 1996 (A) SC 491. In the above stated authority *Kuldeep Singh* the appellant was charge-sheeted under Terrorist and Disruptive Activities Act. His statement was recorded by the police wherein he admitted that he is mixed up with extremists and had been found responsible for supplying information relating to the police department. Their Lordships observed that it is true that the confession or admission of guilt made by person executed of an offence before or while in custody of police officer is not admissible in court of law according to sec. 25 and 26 Evidence Act but it is well settled that these rules of evidence do not apply to departmental inquiries wherein the only test is compliance with the principles of natural justice and of course compliance with the rules governing the inquiries if any. It is further observed that if the appellants confession is relevant and the fact that it was made to the police or while in the custody of the police may not be of much consequence for the reason that strict rules of Evidence Act do not apply to departmental disciplinary inquiries. In a departmental inquiry it would perhaps be permissible for authorities to prove that the appellant did make such a confession/admission during the course of interrogation and it would be for the disciplinary authority to decide whether it is a voluntary confession/admission or not. If the disciplinary authority comes to the conclusion that the statement was indeed voluntary and true he may well be entitled to act upon the said statement. In that case the appellant was acquitted by the designated court. It can be seen that the statement which was recorded by the police was under the Terrorists and Disruptives Act which itself is of value in the eye of law. It can be safely relied upon.

Therefore the facts in that case are different from the facts before me.

11. There cannot be any dispute that in a domestic inquiry strict and sophisticated rules of evidence under the Evidence Act do not apply. In words of Justice Krishna Iyer there is no illergy to hear say evidence provided it has a reasonable nexus and credibility. The same view has been reiterated by the Supreme Court in *J.D. Jain Vs. Management, State Bank of India* AIR 1982 SC 673. There is no other circumstantial evidence against the delinquent. In *Central Bank of India Vs. P. C. Jain* AIR 1969 SC 983 the Supreme Court clearly indicated that the domestic Tribunal will not be justified in recording its findings on the basis of hear say evidence without finding any direct or circumstantial evidence in support of its findings. The Constitution Bench in *Jagannath Prasad Sharma's* case clearly lays down that though a tribunal dealing with domestic inquiry is not bound with formal rules relating to procedure and evidence it cannot be based its findings on evidence which is purely hear say because to do so in an inquiry of this nature would be contrary to the rules of equity and natural justice.

12. Here it can be seen that the inquiry officer had solely relied upon the confessional statements of the other employees, for coming to the conclusion that the charges levelled against the workman are proved. In fact looking to the Judgment of the Metropolitan Magistrate it is very clear that these workmen retracted their confessional statement. For the reasons stated above, those cannot be relied upon for coming to the conclusion that these workmen are guilty of the charges levelled against them.

13. Naturally the action taken by the management for dismissing these employees from the service is not legal and proper.

14. More (Ex-31) admits that he was employed with J. B. Bhora Surveyors Pvt. Limited from April 1993 to July 1994. Thereafter he is running classes 7th and 10th standard there at Dombivile and at his residence. He is getting Rs. 300 p.m. from the classes and was also getting that much amount from the service. Naturally when he is to be reinstated this much amount per month is to deducted while calculating other dues.

15. Nerurkar (Ex-32) is not employed with any body but works with his brother in construction business. He is an interior contractor. He affirmed that he gets Rs. 3,000 p. m. from that work. There is no other evidence on the record to show that he is getting something more than that. I accepted his contention. While his dues are to be calculated this amount of Rs. 3,000 p.m. is to be deducted as he is earning that much amount. Nemade (Ex-33) works as a chemist in Jai Singh Dye Chemicals Ltd. He is there from 16-8-93 till today. In the beginning he was getting Rs. 1,500 as the total amount. Thereafter he is getting Rs. 3,500, now he gets Rs. 4,500. He is having permanent employment. He had not given the specific break up how much he was getting in a particular period. The management had also no evidence to that effect. The cumulative effect appears to be that he gets Rs. 4,000 per month from 16-8-93 till today. This much amount per month has to be taken into consideration while calculating the dues. For the reasons stated above I record my findings accordingly and pass the following order :—

ORDER

The Order dated 9-3-93 passed by the management of Hindustan Petroleum Corporation Ltd. in dismissing the service of Shri More, Nerurkar and Nemade is not legal and justified.

The management is directed to reinstate More, Nerurkar and Nemade, treating them in continuous service.

The management is directed to pay all the dues to More from the date of the dismissal till his reinstatement in service. Out of the dues he is not entitled to Rs. 3,000 per month from 1-4-93 till reinstatement.

The management is directed to pay all the dues to Nerurkar from the date of dismissal till reinstatement. Out of the total dues the workman is not entitled to Rs. 3,000 per month from the date of dismissal till reinstatement.

The management is directed to pay all the dues to Nemade from the date of

dismissal till reinstatement. Out of the total dues the workman is not entitled to Rs. 4,000 per month from 16-8-93 till reinstatement.

9-10-1997

S. B. PANSE, Presiding Officer

नई दिल्ली, 5 नवम्बर, 1997

का.आ. 3016.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचि में, केन्द्रीय सरकार की पी.सी.एल. रिफाइनरी, माहुल के प्रबन्धन के संबंध में निम्नलिखित और उनके कामकाज के बाल, अनुसूचि में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार अधिनियम नं. 2, बम्बई के पंचाट को प्रकाशित करती है जो केन्द्रीय सरकार को 4-11-97 को प्राप्त हुआ था।

[सं. एल-20040/68/94-आई आर (काद-I)]

ब्राज मोहन, डेस्क अधिकारी

New Delhi, the 5th November, 1997

S. O. 3016.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, No. 2, Bombay as shown in the Annexure in the Industrial Dispute between the employers in relation to the management of B.P.C.L. Refinery, Mahul and their workman, which was received by the Central Government on 4th November, 1997.

[No. L-20040/68/94-IR (Coal I)]

BRAJ MOHAN, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. II
MUMBAI

PRESENT

SHRI S. B. PANSE
PRESIDING OFFICER

REFERENCE NO. CGIT-2/20 OF 1995

Employers in relation to the management of
Bharat Petroleum Corporation Ltd.,
(REFINERY MAHUL)

AND

Their Workmen

APPEARANCES :

For the Management : Mr. R. S. Pai, Advocate.

For the Workmen : Mr. J. G. Dadkari, Advocate.

Mumbai, dated 7th October, 1997

AWARD—PART-II

On 16-1-97 by Part-I Award the Tribunal came to the conclusion that the findings of the inquiry officer are perverse and they are not based on the evidence before him. In the present award I have to answer the remaining issues.

2. Before coming to the remaining issues it should be better to narrate in nutshell the facts of the case. Pardeshi the workman was working as General Operative (Filer) at Weigh Bridge in Trombay despatch union (TDU) Bharat Petroleum Corporation, the management. On 28-8-88 he was on duty in the second shift at Weigh Bridge in (TDU). He joined the duties at 15.00 hours. The tanker truck bearing No. MKU-4993 driven by Ajmer Singh reported for filling Benzene. D. B. Kamble was the operation officer than, Pandiayan was another operation officer but was not on the spot.

3. Kamble suspected foul in weighing the tanker truck. He reported the matter to Pandian. He in turn made inquiries with the driver. Ultimately on September 1st, 1989 the worker was suspended for misconduct. On 28-9-88 a charge sheet was issued to him contending that on 29-8-88 he made adjustment in the tareweight after accepting the bribe of Rs. 100 from Ajmer Singh the driver of the tank bearing No. MMU 4993 and there by committed an act submersive of good behaviour or a discipline of the establishment.

4. The domestic inquiry was held against the workman which is admittedly as per the Principles of Natural Justice.

5. The issues that fall for my consideration and my findings thereon are as follows :—

Issues	Findings
1. Whether the action of the management of Bharat Petroleum Corporation Ltd. (Refinery Mahul) Bombay	No.

in dismissal from service of Shri K. P. Pardeshi is justified?

2. If not, what relief the workman is entitled?

As per order.

REASONS

6. In view of the findings in preliminary issues the management was allowed to lead evidence to justify its action. It examined Datana Bhasakar Kamble (Ex. 16) the supervisor and Arvind Vishnu Ghokale (Exhibit-20) Deputy General Manager. I may mention it here that in the list of witnesses (Ex.-22) filed by the management they have mentioned the name of one Mr. P. K. Patel as their witness. This purshis was filed on 1-7-97. Time was granted to the management for producing him, but he was not produced till 14-8-97. On that date management filed a prushis Exhibit-24 to the effect that their witness Mr. Patil (and nor Mr. Patel) is not present today and they do not propose to lead any more evidence in the matter.

7. Mr. Ghadkari, the Learned Advocate for the workman argued that now the Tribunal has to see on the basis of the evidence lead before it whether the charges are proved. According to him nothing new material is come before the Tribunal to prove the allegations to substantiate the action taken by the management. On the other hand Mr. Pai, the Learned Advocate for the management argued that the testimony of Kamble and that of Ghokale alongwith the documents which are already on the record it has to be said that the management had proved the charges which are levelled against the worker. I am not inclined to accept the argument of Mr. Pai, the Learned Advocate for the management for the reasons given below.

8. So far as the testimony of Kamble is concerned he did depose before the inquiry officer and there is nothing new in his testimony which was not before the inquiry officer. His evidence was considered by him while giving findings on preliminary issues in Part-I Award. There is nothing new in his testimony which can throw more light on the documentary evidence produced on the record alongwith Exhibit-5. He had given detailed procedure of the working on the weight bridge where the worker was working which I have already narrated in Part-I Award which I do

not find it necessary to narrate it here again. In other words the testimony of Kambli does not help the management to justify its action.

9. Arvind Ghokale (Ex-20) is the Deputy General Manager (Production) who knows facts of the case and the worker himself. He admits that he was not present on the spot with the lorry came for filling. He also accepts the position that he was not there when Ajmer Singh gave the confession before Pandian. He also does not remember why the driver left the premises leaving the lorry in the campus when the alleged confession was given by him. Looking to his testimony by no stretch of imagination it can be said that the workers charges are proved.

10. I have already discussed the evidence of Ajmer Singh and that of Pandian Part-I Award. Infact nothing new had come before the Tribunal which can be said to be an evidence to justify the action of the management I therefore find that as the charges are not proved against the workman the dismissal order passed against him is unjustified.

11. Mr. Pai, the Learned Advocate for the management argued that now they do not have faith in the worker. It is therefore, he may be paid some compensation and they may be relieved from him on the basis of the ratio given in Hindustan Steel Ltd. Vs. A. K. Roy and Ors. 1970(20) FLR 234. The facts of that case are quite different than the facts before me. Charges are not proved against the workman. Under such circumstances the action cannot be said to be justified. So far as the question of faith of the management on the worker is concerned they might have lost the faith in him. But the Tribunal cannot do anything in the matter in the present reference. In the result I record my findings on the points accordingly and pass the following order :—

ORDER

The action of the management of Bharat Petroleum Corporation Ltd., (Refinery Mahul), Bombay in dismissal from service of Shri K. G. Par-deshi is not justified.

The management is directed to reinstate him in service in continuity along-with full back wages.

S. B. PANSE, Presiding Officer

नई दिल्ली, 6 नवम्बर, 1997

का.श्र. 3017.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार के.टी. वरगीस के प्रबंधन के संबंध में निर्विष्ट औद्योगिक विवाद में लेबर कोर्ट औद्योगिक अधिकरण, अरनाकुलम के पंचपट को प्रकट करती है, जो केन्द्रीय सरकार को 6-11-97 को प्राप्त हुआ था।

[सं. एल-29012/9/95-आई.आर. (विधि)]
बी.एम. डैविड, डेस्क अधिकारी

New Delhi, the 6th November, 1997

S.O. 3017.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Labour Court Industrial Tribunal, Ernakulam, as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Sh. K. T. Varghese, and their workman, which was received by the Central Government on the 6-11-97.

[No. L-29012/9/95-JR (Misc.)]
B. M. DAVID, Desk Officer

ANNEXURE

IN CENTRAL GOVERNMENT LABOUR COURT,
ERNAKULAM

(Labour Court Ernakulam)

(Wednesday, the 24th day of September, 1997)

PRESENT :

Shri Varghese T. Abraham, B.A., LL.M., Presiding Officer.

Industrial Dispute No. 18 of 1995 (C)

BETWEEN

Sri K. T. Varghese, Kanjirakkattu House, Mamala P.O.,
Muriamangalamkara, Ernakulam District.

AND

Smt. Karthika Ayyappan, Madalikuzhiyil, Muriaman-galamkara, Mamala P.O., Ernakulam District.

Representations :

Sri A. V. Xavier,
Advocate, Kochi-20

.. For Management

Sri P. Jacob Varghese,
Advocate, Manilal Flats,
No. XL/7049, Chittoor Road,
Ernakulam

.. For Worker

FINDINGS ON PRELIMINARY POINT

The Government of India as per Order No. L-29012/9/95-JR (Misc.) dated 9-6-95 referred the following industrial dispute for adjudication viz :

"Whether the workman Smt. Karthika Ayyappan is entitled to receive compensation as required under section 25F of the I.D. Act 1947. If so, to what extent the workman is entitled for such relief from the employer Sri K. T. Varghese, Stone Quarry Owner, Mamala, Ernakulam District."

2. A short recital of facts : The Management is a private individual who operated a quarry wherein the workman under the order of reference has been working from 1974. His service is terminated w.e.f. 29-1-94 without notice, notice pay or compensation. Hence, according to her termination is illegal and violative of section 25F of the I.D. Act. According to the Management, reference is not maintainable in law. From the skeletal facts, it can be seen that the dispute is between two private individuals. The Central Government has no power over the quarry excepting the facts that it is a "mine" under the Mines Act and that it is governed by the Security and Welfare measures stipulated under the Metalliferous Rules. Therefore the appropriate Government is the State Government of Kerala and not the Central Government. From this it follows that the Central is not competent to make the reference. As such the reference is illegal and not maintainable. Point found accordingly.

In the result, I hold that the reference is bad and not maintainable in law.

Pronounced in open court on this the 24th day of September, 1997.

VARGHESE T. ABRAHAM, Presiding Officer

नई दिल्ली, 5 नवम्बर, 1997

का.आ. 3018.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार टेलीकाम फैक्ट्री, दियोनार, मुम्बई के प्रबन्धन के संबंध में नियोज्जों और उनके कर्मचारों के बीच अनुबन्ध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, नं. 2, मुम्बई के पञ्चाट को प्रकाशित करती है जो केन्द्रीय सरकार को 5-11-97 को प्राप्त हुआ था।

[नं. एल-40011/16/95-आई आर (डी यू)]
के वी.बी. उन्नी, डेस्क अधिकारी

New Delhi, the 5th November, 1997

S.O. 3018.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal, No. 2, Mumbai as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Telecom Factory, Deonar, Mumbai and their workman, which was received by the Central Government on 5-11-97.

[No. L-40011/16/95-IR(DU)]
K. V. B. UNNY, Desk Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL NO. 2, MUMBAI

PRESENT :

Shri S. B. Parise, Presiding Officer

Reference No. CGIT-2/39 of 1996

Employers in relation to the Management of
Telecom Factory

AND

Their Workmen

APPEARANCES :

For the Employer—Mr. S. B. Kadadm, Representative

For the Workmen—Mr. R. D. Prabhu, Representative

Mumbai, dated 22nd September, 1997

AWARD

The Government of India, Ministry of Labour by its Order No. L-40011/16/95-IR(DU), dated 26-8-96, had referred to the following Industrial Dispute for adjudication :

"Whether the action of the employer of Telecom Factory Deonar, Bombay in not fixing the higher pay scale of wages to the Heavy Vehicle Bus Drivers is legal and justified ? If not, what relief the concerned workman is entitled to ?"

2. Telecom Workers Union, Mumbai filed a statement of claim at Exhibit-2. All India Telecom Employees Union Class-II have filed a statement of claim at Exhibit-3. Infact both of them have identical claim. I therefore intend to narrate them together. It is pleaded that the post of drivers in Telecom Factory, Mumbai are the holders of heavy vehicles licence. The skill required for driving heavy vehicle is that of a highly skilled. They are fixed in the pay scale of Rs. 950—1500 which is normally the pay scale given to the skilled employees of the factory. He being the holder of heavy vehicle licence they should have been given the pay scale of Rs. 1200—1800.

3. The union pleaded that the department of B.A.R.C. has given two scales to the drivers, motor drivers Rs. 950—1500 and bus drivers heavy vehicles Rs. 1150—1500. The other departments of the Government had also placed different pay scales to different type of drivers. It is, drivers scale Grade-I Rs. 1200—1800, drivers scale Grade-II Rs. 1320—2040, Head motor drivers Rs. 1400—2300 there is also one grade of drivers as staff car drivers and they are having different scales. For all these reasons it is submitted that the bus drivers who are holding heavy vehicles licence should be given the pay scale of Rs. 1200—1800 as the basic grade. Thereafter Rs. 1320—2040 for 16 years service and thereafter 1400—2300 after completing 26 years of service.

4. The management resisted the claim by the Written Statement Exhibit-4. It is averred that the Tribunal had no jurisdiction to decide the reference. It is pleaded that the demand of the union is not tenable. In view of the Supreme

Courts decision that the jurisdiction of an export body like the Central Pay Commissions is meant of fixation of the pay scales and not the Courts. It is submitted that the pay scales are given to different categories on the basis of the different recruitments rules and the work carried out by them. Under such circumstances it is submitted that the union is not entitled to any of the reliefs as claimed.

5. The Union filed a rejoinder at Exhibit-7 and reiterated their claim and denied the contentions in the Written Statement which are contrary to their claim.

6. The issues that fall for my consideration and my findings there on are as follows :

Issues	Findings
1. Whether the Tribunal had jurisdiction to decide the reference under Industrial Disputes Act ?	No
2. Whether the action of the employer of Telecom Factory Deonar, Bombay in not fixing the high pay scales of wages to the heavy vehicles bus drivers is legal and justified ?	Does not survive. If survives yes.
3. If not, what relief the concerned workman is entitled to ?	Does not survive.

7. The issue of jurisdiction has to be seen by the Tribunal. It is not necessary that the adverse party should raise the issue then only the Tribunal can embark upon it. It is general contention that in view of the case. Sub-Divisional Inspector of Posts Vs. Theyyam Joseph 1996 II Supreme 487, the Telecommunication is not an industry and this Tribunal has no jurisdiction to decide the matter.

8. In Joseph's case Their Lordships observed 'India is a sovereign, socialist, secular democratic republic has to establish an egalitarian social order under the rule of law. The welfare measures pertain the character of sovereign functions and the traditional duty to maintain law and order is no longer the concept of the stage. Directive Principles of State Policy enjoin the State diverse duties under IV of the constitution and performances of the duties are constitutional functions. One of the duties is of the State to provide telecommunication service to the general public as a amenity and so is the essential part of sovereign functions of the State as welfare State, it is not therefore an industry.

9. The Learned Advocate for the workman placed reliance on various authorities and tried to

submit that Mahanagar Telephone Nigam Limited is an industry. According to him in State of Bombay and Ors. Vs. Hospital Mazdoor Sabha and Ors. 1960 I LLJ 251 it is observed, it is the character of the activity which decides the question as to whether the activity in question attracts the provisions of 2(j) of the Act. It is further observed who conducts the activity and whether it is conducted for profit or do not make material difference. Their Lordships also referred to Schedule 1 to the Act, which enumerated industries which may be declared as a public utility service under Section 2(N) of the Act.

10. In Corporation City Nagpur and its employees 1960 I LLJ 523 Their Lordships considered the scope of the definition industry. It is observed that however wide the definition of industry might be it could not include the legal or sovereign function as the stage viz., the primary and inalienable functions of a constitutional Government which should be confined to administration of justice, maintenance of law and other legislative functions.

11. In the management of Safdurjung Hospital and Kuldeep Singh Sethi 1970 II LLJ 266, Their Lordships while considering whether Hospital run by Government or a local authority or by charitable institutions not as a economic activity as an industry held that they are not governed by the definition of Industry in Section 2(j) of the Act. In Paragraphs 14 and 15. Their Lordships discussed the point regarding material services. It is observed that material services are not services which depend wholly or largely upon the contribution of professional knowledge and skill or dexterity for the production of the result. Such a service given individually by individual are service nodobut but not material services. These services involve in-activity carried on through cooperation between employers and employees to provide a community with a use of something such as electric power, water, transportation, mail delivery telephones and the like.

12. Then comes the Bangalore Water Supply and Sewerage Board etc. and A. Rajappa & Ors. 1978 I LLJ 349. The Constitutional Bench of seven Judges discussed various aspects namely what is industry and laid down different tests for coming to conclusion where a particular activity is an industry or not. The Learned Advocate for the workman more particularly placed reliance on Paragraphs 46 and 47 of the Judgment. He also referred to paragraph 131 of the Judgment. It is observed therein that what is dominant nature test. It is stated that sovereign functions strictly understood alone qualified for exception not the welfare activities or economic adventures undertaken by Government as statutory bodies.

13. In Dahir Gram Panchayat and Shri Brahod Saurashtra Safai Kamgar Mandal Rajkot 1971 I

LLJ 508, wherein it is held that the conservancy and the sanitary activity carried on by Panchayat would be covered by the definition of the word industry. Such activity being material services and a public utility service the workers are the workman as defined in Section 2(j) of the Act.

14. In another case between *Umanyaman and State of Kerala* 1983 I LLJ 267 Their Lordships have given a test for determining which establishments in an industry are an industry or not. The reference was regarding clerk, typists and khalasis. While deciding it Their Lordships observed sovereign functions strictly understood alone qualify for exemptions not the other activities or economic adventure taken by Government or statutory bodies. In another case *Bijoy Kumar Bharathi and Ors. Vs. State of Bihar* I LLJ 214 Their Lordships observed that the mere fact that there is a service code does not amount to necessary implication to the exclusion of the provision of the Industry Disputes Act to Government department. If there were rules, for instance specially dealing with the manner in which temporary appointment could be terminated it could legitimately be argued that Section 25-F is excluded. For them the rules framed under the Constitutional provisions would have precedence over the Act. It is not possible to accept the contention that the provisions of the Act do not apply to Government servants.

15. In *Union of India Vs. Presiding Officer Vs. Central Government Industrial Tribunal, Jabalpur* FGR 1994 page 231 Their Lordships observed that the Central Ordinance department is a severable unit of the defence department of the Central Government and carried on systematic activity with the cooperation of the employees and the employees and is an industry as defined in section 2(j) of the Industrial Disputes Act of 1947.

16. In writ petition Nos. 1584 of 1981, 8721 of 1981 and 3122 of 1981 the Nagpur Bench of the High Court of Bombay held that telegraph department is an industry under section 2(j) of the Industrial Disputes Act. In *K.R.P. Kaimal and Anr. and Director of postal services, Trivandrum* 1979 I LLJ 176 it is observed by Their Lordships public utility services like the postal services comes under industry, such activity cannot be called as a sovereign functions solely because rules framed under articles 309 and 310 governs such an employee. In another case between *Bhaskaran and Sub-Divisional Officer* 1982 II LLJ 248 it is observed that post and telegraph and Telephone services are named public utility services under the Act. They are industries to which the provisions of section 10, 12 and 22 of the Act directly apply.

17. In *Delhi Science Forum Vs. The Union of India* (1996) 2 Supreme Court cases 405 wherein their Lordships considered section 4 of the Tele-

graphic Act, 1885 which speaks of granting of licence to non-government companies. That right flows from the sub-section 1 of section 4 which vests that privilege and right in the Central Government.

18. On the basis of the principles laid down in the above said authorities it is tried to argue that Telecommunication is an industry. It cannot be termed as sovereign function of state. It is Government undertaking. It works for profits for all these reasons it clearly meets out the requirement of an industry under section 2(j) of the Act and is an industry.

19. The Learned Advocate for the management argued that this Tribunal in an earlier reference No. 2/26/91 came to the conclusion on the basis of the Joseph's case that Telecommunication is not an industry judicial discipline wants that unless there is verdict from the superior court or that there is sufficient evidence on the record for changing the earlier views the Tribunal should not change its views. This proposition is acceptable. Further more if it is found by the Tribunal that a view taken by it is incorrect. There in that case it cannot be said that it should commit the same mistake in latter Judgments/Awards. It can very well correct himself as laid down in *Mafatlal Engineering Industrial Limited Vs. Mafatlal Employees Union and Ors.* 1992 I CLR 418. The Award of this Tribunal was challenged in *SLP Bombay Telephones Canteen Employees case*. It was confirmed.

20. The Learned Advocate for the workman argued that the Bangalore Water works was delivered by a constitution Bench of seven judges. The view expressed in Joseph's case and later on in *Bombay Telephones case* is of a smaller bench of the same court. In view of Article 141 of the Constitution the decision given in those cases is per incurrium. The Tribunal has to ignore it. In *Bombay Telephones case* Their Lordships had considered many of the authorities which were cited before me. The ratio therein cannot be said to be per incurrium.

21. The Learned Advocate for the workman placed reliance on *Union of India and Ors Vs. Godfrey Philips India Ltd.* (1985) 4 S.C. cases 369 and *Punjab Land Development and Reclamation Corporation Ltd. Chandigarh* (1990) 3 S.C. 682. These cases deals with law that the principles laid down by larger bench are to be followed in relation to the smaller bench, nobody dispute it.

22. The Supreme Court considered their views expressed in Joseph's case in *Bombay Telephone Canteen Employees Association, Prabhadevi Telephone Exchange Vs. Union of India and Anr.* 1997 II CLR 218 Their Lordships considered the Bangalore Water Works Hospital Mazdoor Sabha, Corporation of City of Nagpur, Rajasthan State Electricity Board and many other. They also considered the case of *Physical Research Laboratory Vs. K. G. Sharma J. T.* 1997 (4) S.C.

527 and came to the conclusion that departmental canteen of Telephone is not an industry. It is observed that the employees working in statutory canteen in view of respondents admission are holding civil posts and are being paid monthly salary and are employees, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate the dispute on a reference under Section 10(1) of the Industrial Disputes Act.

23. In the above said authority Their Lordships further observed that the employee gets a remedy under the Act by way of reference and remedy of a judicial redresser by way of proceedings under Article 226 of a petition filed before the Administrative Tribunal. They are co-existing. The Court would therefore strike a balance between the competing rights of the individual and the stage agency or instrumentality and decide the validity of the action taken by the management necessarily if the service conditions stand attracted all the conditions laid therein would become applicable to the employees with a fixity of tenure and guarantee of service subject to disciplinary action. His removal should be in accordance with the just and fair procedure envisaged under the rules of application of the Principles of Natural Justice as the case may be which event the security of the tenure of the employees is assured and the whim and the fancy vagary of the employer would be deterred and if unfair and unjust action is found established it would be declared as an arbitrary, unjust or unfair procedure. On the other hand if the finding is that there exists no statutory rule or certified standing order exists or they are not either made inapplicable. The remedy of the reference under Section 10 of the Act would always be available and avail of as it is an industry and indicia lead in Bangalore Water Supply Board case gets attracted.

24. In Himanshu Kumar Vidyarthi and Ors. Vs. State of Bihar and Ors. 1997 S.C. cases (L&S) 1079 Their Lordships observed every department of Government cannot be treated to be an industry. When the appointments are regulated by the statutory rules the concept of industry to that extent stands excluded. In that case the petitioners were not appointed to the posts in accordance with the rules but were engaged on the basis of need of the work. They are temporary employees working on daily wages. They are disengagement from service, cannot be construed to be a retrenchment under the Industrial Disputes Act. The concept of retrenchment therefore cannot be stretched to such an extent as to cover these employees since they are only daily wage employees and have no right to the posts, their disengagement is not arbitrary. Relying on the ratio given in this authority it is tried to submit that the workman who is a casual labourer have no right for the employment. The other facts are different than the facts before me.

25. The ratio laid down from the above said authorities is that if the employees hold a civil post and are being paid monthly salary and are employees, the necessary conclusion would be that the Tribunal has no jurisdiction to adjudicate the dispute on a reference under Section 10(1) of the Act.

26. It is admitted position that these employees are having a different pay scales. They are recruited following the prescribed rules and holding civil posts. In view of the ratio given in the above said authorities the Tribunal had no jurisdiction to decide this reference.

27. For the sake of argument if it is said that the Tribunal had jurisdiction to decide the reference I intend to answer the remaining issues.

28. Pramod Gangaram Sensurkar (Ex. 9) is a motor driver in the telecom factory and worked since 27-9-83. He holds a heavy vehicle driving licence. According to him high skill is required for driving the vehicle. He affirmed that B.A.R.C. bus drivers are given high pay scales to heavy vehicle drivers. This position is not disputed by the management. Pramod in the cross examination admits the fact, that he was initially getting the pay scale of Rs. 260—400. In the Fourth Pay Commission his scale was increased to Rs. 950—1500. In other words it can be seen that the pay scales are fixed by the pay commissions. If really they had any grievance for they should put their grievance before the pay commissions. The Tribunal is not the proper forum to decide the pay scales. It is not the case that in the same establishment different pay scales are adopted to the persons doing the same job. Therefore the request which is made by these unions that there is a high pay scale to the drivers who are holding heavy vehicle licences in B.A.R.C. and that should be given to them is without any justification.

29. There is no evidence to show that what type of work is carried out by the heavy vehicle drivers in the B.A.R.C. comparing the work with that of the bus drivers in the factories. In the result there is no merit in the case of the union. I record my findings on the issues accordingly and pass the following order :

ORDER

The Tribunal has no jurisdiction to decide the reference.

S. B. PANSE, Presiding Officer

नई दिल्ली, 11 नवम्बर, 1997

का. आ. 3019.—कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा--1 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार एतद्वारा 1 दिसम्बर, 1997 को उस तारीख के रूप में नियत करती है, जिसको उक्त अधिनियम के अध्याय—4 (धारा—44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय—5 और 6 (धारा—76 की उपधारा (1) और धारा—77, 78, 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध केवल राज्य के निम्नलिखित क्षेत्रों में प्रवृत्त होंगे, अर्थात् :—

“जिला त्रिचूर के थालापिल्ली तालुक में राजस्व ग्राम चोवानूर और थेन्नालूर के अन्तर्गत आने वाले क्षेत्र”।

[संख्या एस-38103/23/97-एस०एस०-I]

जे० पी० शुक्ला, अवर सचिव

New Delhi, the 11th November, 1997

S.O. 3019.—In exercise of the powers conferred by sub-section (3) of Section 1 of the Employees' State Insurance Act, 1948 (34 of 1948) the Central Government hereby appoints the 1st December, 1997 as the date on which the provisions of Chapter IV (except Sections 44 and 45 which have already been brought into force) and Chapter V and VI (except sub-section (1) of Section 76 and Sections 77, 78, 79 and 81 which have already been brought into force) of the said Act shall come into force in the following areas in the State of Kerala, namely :—

“The areas within the revenue villages of Chovvannoor and Thenagalloor in Thalappilly Taluk of Thrissur District”.

[No. S-38013/23/97/SS.I]

J. P. SHUKLA, Under Secy.

नई दिल्ली, 12 नवम्बर, 1997

का०आ० 3020.—केन्द्रीय सरकार का यह समाधान हो जाने पर कि लोकहित में ऐसा करना अपेक्षित है, औद्योगिक

विवाद अधिनियम, 1947 (1947 का 4) की धारा 2 के खंड (ग) की उपधारा (vi) के अनुसरण में भारत सरकार के श्रम मंत्रालय की तारीख 16 मई, 1997 की अधिसूचना संख्या 1468 के तहत प्रतिभूति मुद्रणालय हैदराबाद को उक्त अधिनियम के प्रयोजनार्थ 16 मई, 1997 से छह माह की कालावधि के लिए लोकोपयोगी सेवा घोषित किया था,

और केन्द्रीय सरकार की राय है कि कि लोकहित में उक्त अवधि को और छह माह के लिए बढ़ाना अपेक्षित है,

अतः, अब, औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 2 के खंड (ग) की उपधारा (vi) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार उक्त उद्योग को उक्त अधिनियम के प्रयोजनार्थ 16 नवम्बर, 1997 से छह माह की कालावधि के लिए लोकोपयोगी सेवा घोषित करती है।

[संख्या एस०-11017/8/97-आई० आर (पी०एल०)]

एच० सी० गुप्ता, अवर सचिव

New Delhi, the 12th November, 1997

S.O. 3020.—Whereas the Central Government having been satisfied that the public interest so required had, in pursuance of the provisions of sub-clause (vi) of clause (n) of section 2 of the Industrial Dispute Act, 1947 (14 of 1947), declared by the Notification of the Government of India in the Ministry of Labour S.O. No. 1468 dated 16th May, 1997 the services in Security Printing Press, Hyderabad to be a public utility service for the purpose of the said Act, for a period of six months from the 17th March, 1997;

And whereas, the Central Government is of opinion that public interest requires the extension of the said period by a further period of six months;

How, therefore, in exercise of the powers conferred by the proviso to sub-clause (vi) of clause (n) of section 2 of the Industrial Disputes Act, 1947, the Central Government hereby declares the said industry to be a public utility service for the purposes of the said Act for a period of six months from the 16th November, 1997.

[No. S-11017/8/97-IR(PL)]

H. C. GUPTA, Under Secy.

